

Exhibit L

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No. 5:12-CV-00610-F

C O P Y

CITY GRILL HOSPITALITY GROUP, INC.,)
)
)
Plaintiff,)
)
)
vs.)
)
)
NATIONWIDE MUTUAL INSURANCE COMPANY,)
)
)
Defendant.)
)
-----)
) D E P O S I T I O N

STEPHEN EDWARD STONE

202 Fairway Drive
Fayetteville, North Carolina

Friday, July 19, 2013
1:37 o'clock p.m.

Atlantic Professional Reporters
Winston-Salem, NC 27116-1672

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APPEARANCES OF COUNSEL				EXHIBITS	
Richard M. Wiggins, Esq. McCOY WIGGINS CLEVELAND & O'CONNOR, PLLC 202 Fairway Drive Post Office Box 87009 Fayetteville, North Carolina 28304-7009				Name Offered By Identified	
Rachel E. Daly, Esq. WOMBLE CARLYLE SANDRIDGE & RICE, LLP One West Fourth Street Winston-Salem, North Carolina 27101				Deposition Exhibit 1 Defendant 23 Deposition Exhibit 2 Defendant 35 Deposition Exhibit 3 Defendant 74 Deposition Exhibit 4 Defendant 82 Deposition Exhibit 5 Defendant 89 Deposition Exhibit 6 Defendant 93 Deposition Exhibit 7 Defendant 103	
OTHER APPEARANCES				STIPULATIONS	
Loryn Buckner				Pursuant to notice and/or consent of the parties, the deposition hereon captioned was conducted at the time and location indicated before Cassandra J. Stiles, Notary Public in and for the County of Forsyth, State of North Carolina at Large. The deposition was conducted for use in accordance with and pursuant to the applicable rules or by order of any court of competent jurisdiction. Reading and signing of the testimony was requested prior to the filing of same for use as permitted by applicable rule(s).	
				1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

<p style="text-align: center;">Page 6</p> <p>1 The witness, STEPHEN EDWARD STONE, being 2 first duly sworn to state the truth, the whole truth 3 and nothing but the truth, testified as follows: 4 (1:37 o'clock p.m.) 5 EXAMINATION 6 BY MS. DALY: 7 Q. My name is Rachel Daly, and I have been 8 retained by Nationwide in this matter. 9 Have you had your deposition taken before? 10 A. Yes, I have. 11 Q. Just a few things. 12 If you need a break, let me know. The 13 only thing that I ask is that you answer the question 14 that's on the table. 15 Other than that, if you don't understand 16 my question, please let me know and I'll rephrase it. 17 A. Okay. 18 Q. Will you state your full name for the 19 record. 20 A. Stephen Edward Stone. 21 Q. You provided us a copy of your CV. Is 22 this your most up-to-date CV? 23 A. It is. 24 Q. Generally speaking, have you ever been 25 disciplined by any professional board?</p>	<p>1 basis? 2 A. I -- I lead the -- the technical team, the 3 engineering team responsible for design, validation, 4 qualification, of the STOVL propulsion system for 5 that aircraft. 6 Q. And what is the STOVL? 7 A. I'm sorry. It's short takeoff and 8 vertical landing. 9 Q. Are you more in an administrative role at 10 this point in your career, supervising others? 11 A. No. It's very much a hands-on design 12 validation effort. 13 Q. What else do you do in that position on a 14 day-to-day basis? 15 A. Well, let's see. We're running a very 16 aggressive flight test program, so on any given day 17 I'm looking at airworthiness issues, signing the 18 flight test letters, the things that we need to do to 19 be able to go from flight testing the aircraft, 20 progressively pushing out the envelope until we can 21 verify the full flight test envelope. 22 So airworthiness is a big part of what I 23 do, as well as leading the design and validation 24 effort on the STOVL system. 25 I also, as you'll see in the CV, we've got</p>
<p style="text-align: center;">Page 7</p> <p>1 A. No. 2 Q. And have you ever been terminated from a 3 position? 4 A. No. 5 Q. Have you ever been laid off from a 6 position? 7 A. No. Of course we're going through 8 sequestration and furloughs right now, right, the 9 government. Fridays are furlough days for 11 weeks, 10 but that's not a layoff. That's a furlough. 11 Q. Let's talk about your current position. 12 It states that you are the principal 13 engineer for Stone Engineering, Incorporated. 14 A. Yes. 15 Q. And do you have any other employment other 16 than being the principal engineer at Stone? 17 A. Yes. 18 Q. What is your other employment? 19 A. I'm employed with the government. 20 Q. Okay, and what do you do for the 21 government? 22 A. In my current position, I'm the STOVL, 23 S-T-O-V-L, chief engineer for the F-35B aircraft 24 program. 25 Q. And what are your duties on a day-to-day</p>	<p>1 aircraft fielded now so we're just standing up the 2 in-service engineering aspects of that, so I'm also 3 helping to lead that effort through the expansion of 4 limits, technical repairs and all that. It all sort 5 of funnels back to me on the STOVL system for the 6 overall technical responsibility. 7 Q. In that position, how often do you have to 8 look at a product to determine whether or not there 9 was an electrical failure that caused a fire? 10 A. In that particular application, not very 11 often. We have -- well, actually, not at all, 12 because we haven't had any electrical fires in the 13 F-35B in a propulsion system. 14 Q. So in your entire time in that position 15 you've never looked at a product to determine whether 16 or not there was an electrical failure that caused a 17 fire? 18 A. On the F-35B propulsion system, which I've 19 been involved with since 2010, yes, ma'am, that's 20 correct. 21 Q. What were you involved in prior to 2010? 22 A. Prior to that point I was the senior 23 in-service engineer for the Navy for STOVL 24 propulsion. 25 Q. And how long were you in that position?</p>

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1 A. I believe -- I'll just check my CV here.
 2 I believe I started that position in 2006,
 3 and then I transitioned out of that in 2010 to take
 4 up the chief engineering position on the F-35 STOVL
 5 system.

6 Q. And during that period of time, the
 7 2006-2010, how often were you looking at a product to
 8 determine whether or not there was an electrical
 9 failure that caused a fire?

10 A. The only times I would have done that
 11 would have been during aircraft accident
 12 investigation, of which I did quite a few working on
 13 a STOVL platform. Unfortunately, we crashed a few of
 14 those.

15 So you're always looking back through the
 16 wreckage, trying to work out sequence of events for
 17 -- as you started to lose systems -- in-flight fires,
 18 I've looked at stuff for that, too, in that position.
 19 That's probably the gist of it there.

20 Q. How many did you look at? You said quite
 21 a few.

22 Is that three, five, what --

23 A. --- Oh, that's probably -- let's see.

24 As a senior in-service engineer from 2006
 25 to 2010, probably more than five, less than 15,

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1 in-service engineering engine controls lead for the
 2 Navy.

3 Q. And that's from 1987 to 2006?

4 A. From 1995 to 2006. I was the senior
 5 in-service engineer for that time period. Prior to
 6 that, the period you referred to, '87 to 2006, would
 7 have been just the lead engineer for the T45 and the
 8 AV8. I was dual-added for part of that. That may be
 9 part of the confusion.

10 As I picked up the new in-service
 11 engineering lead position, I also held the previous
 12 as well.

13 Q. Let's do 1995 through 2006.

14 How often were you looking at a product
 15 failure to determine whether there was an electrical
 16 failure that caused a fire?

17 A. Again, it would just go back really to the
 18 aircraft mishap investigations. But the exact
 19 numbers, I don't have.

20 I mean, I was involved with the Harrier
 21 program for 26 years, so -- you know, I've looked at
 22 a lot of crashed Harriers. I don't know exactly how
 23 many between '95 and 2006.

24 Q. Okay.

25 A. I'd have to go back and pull out my

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1 somewhere in that ballpark. Because as the senior
 2 in-service engineer, even if the other guys were
 3 doing the investigation, I would still ultimately get
 4 rolled in for oversight.

5 Q. So does that mean you would not have
 6 actually physically looked at the evidence yourself?

7 You would have looked over somebody else's
 8 end product of their determination of the incident or
 9 ---

10 A. --- No, typically I would be wading
 11 through parts.

12 A big part of that is reconciling all of
 13 the damage in failures that you have and work that
 14 back to what you believe the most probable cause was.
 15 So it's a lot of systems and things you have to work
 16 through.

17 Q. And you believe there could have been
 18 upward to 15 crashes during that four-year period of
 19 time?

20 A. No, let's drop that down to 10. There
 21 were probably under 10. So between five and 10 is
 22 probably right for that four-year period.

23 Q. Prior to that period of time what were you
 24 doing?

25 A. Let's see, before that I was the

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1 records.

2 Q. And other than crashes during that period
 3 of time, would there have been any other scenario
 4 when you would have been looking at a product to
 5 determine whether there was an electrical failure
 6 that caused a fire?

7 A. An actual fire in the aircraft, no.
 8 Electrical failures, yes, but not fires.

9 Q. Since 1987 what would you approximate the
 10 amount of crashes you worked on during your career
 11 with the government?

12 A. Well, really, it would go back to 1984.

13 Q. Okay, 1984....

14 A. That's when I actually started with them.

15 Q. In crashes where you're looking at a
 16 product to determine whether or not there was a -- an
 17 electrical failure that caused a fire?

18 A. I don't know a number off the top of my
 19 head.

20 And again, this is -- the context of this
 21 would be looking at all of the wreckage, working back
 22 through all the failed harnesses and components, and
 23 trying to understand -- reconcile the damage that you
 24 see.

25 For instance, lots of times there are

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Page 16

1 post-impact fires, so you're always having to look
 2 through that stuff to rule it out. But -- I don't
 3 know -- certainly more than 20. And it also spans
 4 other programs, too.

5 I've done other aircraft accidents as well
 6 -- other platforms, F4's, T45's, things like that, so
 7 it's quite a bit of exposure to forensic analysis.

8 Q. So would you say more than 20, less than
 9 30?

10 A. No. Probably less than about 60 or so
 11 would probably be a conservative number, over my
 12 entire career.

13 Q. In conjunction with your position with the
 14 government, it appears that you have your own company
 15 as well, Stone Engineering?

16 A. I do.

17 Q. What types of companies typically hire you
 18 in that role?

19 A. Predominantly insurance companies.

20 Occasionally I'll get a case through a
 21 lawyer, or rarely, although it does occur, I'll have
 22 a case directly from, you know, the general public.

23 Q. And what types of cases do you work on in
 24 your capacity as the engineer for Stone Engineering?

25 A. A lot of failure analysis, some accident

1 I mean, I obviously, you know, work
 2 full-time for the government, and I try not to become
 3 overly busy, so I can have some family time. So I
 4 deliberately keep this to a reasonable, manageable
 5 level.

6 Q. Have you given testimony in any of those
 7 cases involving fire investigation?

8 A. For this year?

9 Q. No, in any of yours, since 1999.

10 A. Yes.

11 Q. Do you recall the names of those cases?

12 A. No.

13 Q. Were they located in Fayetteville?

14 A. I'd have to look at my records to see.

15 Q. Do you keep records regarding the types of
 16 cases you work on?

17 A. I keep a -- a testimony log, and then it
 18 just rolls -- of course, according to Rule 26, for
 19 truncating it to four years. Right? But I keep
 20 records.

21 Q. Do you actually keep records of the type
 22 of investigation you were performing and....

23 A. I keep a record by case file number that I
 24 can then look at and see what the subject was on it,
 25 and then without having to go back and pull my

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1 reconstruction, some involvement with, you know, fire
 2 investigations.

3 And really, from that perspective, more of
 4 a product liability, defect analysis perspective.

5 Q. So since 1999 how often have you been
 6 retained to look at a fire investigation?

7 A. It's probably something on the order of
 8 about 25 percent of my business.

9 Q. Okay, so in a given year, approximately
 10 how many fire scene investigations do you do?

11 A. It -- it varies year to year.

12 Q. Okay, let's talk about this year.

13 Other than this case, how many fire
 14 investigations are you doing?

15 A. This is the only one I have open at the
 16 moment. I just finished one earlier. I'd say I've
 17 probably done three or four this year.

18 Q. Last year, how many did you work on, not
 19 including the three to four you just ---

20 A. --- I don't know.

21 Q. --- Accepted this year?

22 A. I'd have to look at my records.

23 Q. Can you give me a general idea? Are we
 24 talking three to four, 20?

25 A. Probably three to four range.

1 reports and my case files, I can tell from that what
 2 the nature of the work was.

3 Q. When you are hired to do a fire
 4 investigation, do you typically go to the scene of
 5 the fire?

6 A. Not always. Maybe 50 percent of the time,
 7 if that.

8 Q. And if you're not at the scene of the
 9 fire, how do you generally go about conducting your
 10 fire investigation?

11 A. I actually conduct a fire loads and
 12 effects based analysis on the items generated from
 13 the fire scene by the cause and origin investigators.
 14 So they bring that to me with a very specific
 15 question about, you know, we think this might have
 16 potential, you know, if you see any evidence of fire
 17 causing failures or defects.

18 And then I work the protocols with the
 19 other parties as necessary and align on inspection
 20 requirements and go from there. So I don't get into
 21 the discussion of the fire vectors and the patterns
 22 on the wall and all that. I focus strictly on the
 23 hardware or the components.

24 Q. So you are not qualified to determine the
 25 origin of the fire. Is that correct?

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1 A. Within a room or a structure, no.
 2 Q. And you are not qualified -- strike that.
 3 How often do you do your investigation
 4 based solely on photographs?
 5 A. Never. But I always have the hardware,
 6 the evidence, in my possession, and I execute a full
 7 failure modes and effects analysis on that component
 8 and then drive an appropriate investigation, and then
 9 use the evidence to rule in or rule out supporting or
 10 refuting evidence as necessary.
 11 In fact, I'm looking for the failure
 12 effect, which, in this case, would be a fire causing
 13 failure or defect. But never off of photographs.
 14 Q. When were you retained for this case?
 15 A. The 11th of April, 2013.
 16 Q. And who contacted you?
 17 A. Trey McLean.
 18 Q. And what did Mr. McLean tell you about the
 19 case?
 20 A. Really, what we discussed was my role in
 21 it. He said that there was some evidence that had
 22 already been collected from the fire scene, and that
 23 there was a joint examination that was going to take
 24 place on the 17th of April, I believe it was.
 25 So very specifically he asked me to go

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1 A. No. I would say that probably flowed over
 2 a couple of days. We talked a couple of times,
 3 spanning the period from the 11th through to the
 4 17th, from the time I was retained right up until we
 5 went. So it was over that time frame.
 6 Q. Anything else mentioned to you besides the
 7 wireless device?
 8 A. Not that I recall.
 9 Q. Were you asked to look at any of the items
 10 that were at the -- the exam to determine whether or
 11 not there was an electrical failure with any of the
 12 other items?
 13 A. Yes. I was asked to look at all of the
 14 evidence that was there, so I looked at everything
 15 that was made available to me.
 16 Q. And you said you had talked to Steve
 17 Booth.
 18 A. I did.
 19 Q. Did you previously know Mr. Booth?
 20 A. Yes.
 21 Q. Did you work with Mr. Booth at some point
 22 prior to this case?
 23 A. Not in the same company. I mean, he works
 24 for Langham & Associates. I rent office space from
 25 them, so we're co-located, so I've worked other cases

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1 participate in that joint examination, look
 2 specifically for evidence of a fire causing failure
 3 or defect in the exhibits provided, and then to
 4 support the investigation from that point forward if
 5 any more hardware evidence came up.
 6 Q. Anything else?
 7 A. A brief overview of the nature of the
 8 fire, that it was in a restaurant, just some of the
 9 general things.
 10 He also put me in touch with Steve Booth,
 11 who was the cause and origin investigator. So of
 12 course Steve gave me some background, which really
 13 pertained to where the evidence came from.
 14 Q. Okay, let's stick with what Mr. McLean
 15 talked to you about.
 16 Other than going to the evidence exam,
 17 what else was your role in this investigation?
 18 A. Well, I was told that this one particular
 19 component, that there was an HME Ion IQ wireless
 20 device that was there. I was asked to look and see
 21 if it was there, and then to -- you know, to
 22 determine if I could rule it in or out as a potential
 23 contributor or cause.
 24 Q. And he told you this on the initial
 25 contact with you?

Page 21

1 with Mr. Booth as well as other investigators from
 2 Langham & Associates.
 3 Q. How many times have you worked with Mr.
 4 Booth?
 5 A. I'd have to check my records.
 6 Q. Give me an approximation.
 7 A. Somewhere between five and 10, maybe,
 8 ballpark.
 9 Q. Have you ever worked a fire investigation
 10 with Mr. Booth?
 11 A. Yes.
 12 Q. Were all of those fire investigations that
 13 you've worked with Mr. Booth?
 14 A. Yes.
 15 Q. Have you ever worked with any attorney
 16 from McCoy Wiggins prior to this case?
 17 A. Not that I recall.
 18 Q. And to date, have you ever been to the
 19 scene of the fire?
 20 A. No.
 21 Q. Have you ever asked to go to the scene of
 22 the fire?
 23 A. No.
 24 Q. You provided an invoice with your expert
 25 report.

6 (Pages 18 to 21)

Page 22

1 Do you have a copy of that invoice with
 2 you?

3 A. No, ma'am.

4 Q. It states that you researched the HME ion
 5 IQ drive through system components.

6 What did you do to research?

7 A. I researched them online, trying to get
 8 basic design specifications for the unit, as well as
 9 the -- you know, the physical dimensions so that I'd
 10 be able to recognize the hardware from that, or the
 11 sub-components, as the case may be, if it was there
 12 to be examined on the 17th.

13 Q. Did you contact the company directly?

14 A. No.

15 Q. Anything else, besides doing online
 16 research?

17 A. No, that was it.

18 Q. It states that you reviewed the
 19 photographs from Mr. Lacy and Mr. Martini.

20 Were you ---

21 A. --- Yes. The ones that were made
 22 available to me, yes, I did.

23 Q. Approximately how many were made available
 24 to you?

25 A. I don't recall. I've got a full CD of

Page 24

1 supplemental reports that were just made available to
 2 me last night from Mr. Martini and Mr. Lacy. They
 3 didn't make them available. They came, of course,
 4 through counsel, but I did review those.

5 Q. And you received those last night?

6 A. I did.

7 Q. And have you spoken to anyone from McCoy
 8 Wiggins regarding the expert reports?

9 A. Yes.

10 Q. And when did you speak with them?

11 A. A little bit last night, and then very
 12 briefly today.

13 Q. Okay, we'll go through that in detail
 14 later.

15 A. Okay.

16 MS. DALY: Before we do anything
 17 else, if we can go off the record for a few minutes.

18 (2:02-2:08 p.m. - recess)

19 Q. (Ms. Daly) You mentioned having
 20 discussions with Steve Booth leading up to the exam,
 21 evidence exam.

22 What else do you recall discussing with
 23 Steve Booth?

24 A. He gave me some of the background of the
 25 fire from his cause and origin investigation. He did

Page 23

1 everything that's been made available to me. I can
 2 find that if I need to.

3 Q. Well, that's one thing that I noted that
 4 your report was deficient, is that the Federal Rules
 5 require you to list everything you reviewed and you
 6 were provided, and you did not do that.

7 Did you bring a list of those materials
 8 and documents today?

9 A. I brought all of the materials and
 10 documents today. I made a full CD of everything that
 11 I reviewed.

12 Q. Let's mark this as an exhibit.

13 (* Exhibit 1 was marked *)

14 Q. It's been marked as Exhibit 1.

15 Is there a page, table of contents on
 16 Exhibit 1, or is it simply just the documents?

17 A. Those are simply just the documents
 18 individual files, like Martini photographs, etcetera,
 19 etcetera, that were provided to me.

20 Q. Other than what's been listed on this
 21 invoice, have you done anything else in regards to
 22 this case?

23 A. Let me check my notes.

24 (Witness examined documents)

25 A. Yes, I reviewed -- I guess there were

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1 tell me that apparently everyone seemed to be in
 2 general agreement with the general area of the fire
 3 and that the -- the exhibits that we were going to
 4 look at had all been recovered from that immediate
 5 area of origin for the most part.

6 So we talked through, you know, where that
 7 evidence came from, the condition of the fire scene.
 8 He walked me through his photographs that he had
 9 taken as well.

10 Q. Did he walk you through anybody else's
 11 photographs?

12 A. I don't recall. I don't believe I
 13 actually had any photographs available other than
 14 from Booth to start with.

15 I mean, from the time frame of 11 through
 16 17 April, so....

17 Q. I'm talking about between April 11th, when
 18 you were retained, and April 17th.

19 A. Yes.

20 Q. The evidence exam.

21 A. Yes.

22 Q. So, to focus on that time period, anything
 23 else you recall from Steve Booth?

24 A. Not anything that I thought was of
 25 substance to the work I was going to do.

7 (Pages 22 to 25)

<p style="text-align: right;">Page 26</p> <p>1 Q. That's kind of a vague answer and not very 2 helpful. 3 A. Okay. Sorry. 4 Q. Let's focus on the origin of the fire. 5 What did he tell you about the origin of the fire? 6 A. As I recall, it was in the corner next to 7 the drive-thru window, and we walked through the 8 photographs just of that very quickly. 9 And again the focus of the discussion we 10 had was on -- the context was, you know, here's this 11 -- here are the exhibits they recovered, here are the 12 receptacles they've recovered, here's the drive-thru 13 window and so on. 14 Q. Did Mr. Booth, when looking at the 15 pictures, show you where he believed the origin of 16 the fire was located? 17 A. Loosely. I mean, he put it generally in 18 that corner. 19 Q. Okay. 20 A. I guess the right-hand corner if you're 21 facing the drive-thru window on the side of the 22 building. 23 Q. How close to the floor did he put the 24 fire? 25 A. I don't recall.</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Only in the sense -- from the work that I 2 would do with it, to define the failure modes and 3 effect -- the effect that I'd be driving to look for. 4 I mean, the cause and origin investigators 5 have isolated x amount of exhibits for evidence that 6 they have pulled from the area of origin that through 7 their expertise they've narrowed down to. 8 In my case, I would drive the failure 9 modes and effects analysis for the effect of 10 potential fire causing failure or defect, and then I 11 would start looking at all the plausible modes or 12 mechanisms the particular exhibit or piece of 13 evidence we're talking about might have, and then 14 start looking at what supporting or refuting evidence 15 I would need from an investigative perspective on 16 that exhibit to be able to converge on probable or 17 improbable. 18 Q. Okay, so other than the general area of 19 origin, did Steve Booth tell you anything else about 20 where this fire started? 21 A. Well, he told me that -- I guess that the 22 client -- that there was some question, you know, 23 that people were suspecting involvement potentially. 24 Q. And what did he tell you about that? 25 A. That was really the gist of it.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Did he point to you on the fire where he 2 believed it started? 3 A. We were talking over the phone. 4 Q. Excuse me. 5 Okay, so he walked through the pictures 6 with you over the phone? 7 A. Over the phone, yes, ma'am. 8 Q. So did you have a copy as well as he had 9 his own copy, or did he literally just tell you what 10 his photos showed? 11 A. No. He actually uploaded the photos for 12 me in Dropbox and I could pull them down so we could 13 both look at the photos and talk through them 14 together. 15 Q. So when he was talking to you about the 16 origin of the fire, what exactly -- where did he tell 17 you other than it was in the drive-thru window area? 18 A. We had specific photographs that we were 19 going through, and there were quite a few of them, so 20 -- you know, I don't recall specifically exactly 21 where he's placing the origin. 22 And again, my focus was on looking at the 23 physical evidence available on the 17th. 24 Q. So is the origin of a fire relevant to 25 your part of the investigation?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Did he tell you about any interviews that 2 were conducted? 3 A. No. We didn't get in to any of that. 4 Q. Did Steve Booth tell you whether or not he 5 suspected the client, Mr. Diamantopoulos, caused the 6 fire? 7 A. No, he did not, because again, it would 8 have no bearing on what I would be doing. 9 Q. Okay. 10 A. The evidence is what it is. 11 Q. When Mr. Booth mentioned to you that there 12 was suspicion regarding whether Mr. Diamantopoulos 13 set the fire, who did he tell you thought that Mr. 14 Diamantopoulos set the fire? 15 A. Well, he had told me that -- I guess that 16 his insurance company, that there was some dispute 17 over the cause of the fire, so I'm assuming that 18 that's who is suspecting him. 19 Q. Did Mr. Booth ever mention Mr. 20 Diamantopoulos by name? 21 A. Yes, because that's actually the client. 22 I mean, that's the name, you know, of the client that 23 I guess is your client, but we're working for Mr. 24 Wiggins, and so yes, I have heard that name. He's 25 talked about that.</p>

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1 He's talked about some time lines and
 2 things about the evening of the fire, so I have heard
 3 that name from Mr. Booth.

4 Q. Okay, but I have a specific question.

5 Did he ever mention Mr. Diamantopoulos as
 6 the suspect who set the fire?

7 A. That was what I understood the suspicion
 8 to be.

9 Q. Did he tell you why there was suspicion
 10 surrounding Mr. Diamantopoulos?

11 A. I know he's referred to a time line that,
 12 you know, he was there the evening of. I guess he
 13 was the last person that was there that evening, so.

14 Q. Are you talking about the morning of the
 15 fire?

16 A. The -- prior to the fire, he was the last
 17 person in the restaurant, was my understanding.

18 Q. Did he go through the time line with you?

19 A. No, not in great detail.

20 I mean, he mentioned a couple of minutes
 21 at Walmart or whatever, and just kind of talked
 22 through it, but we didn't -- we didn't spend any
 23 great detail on the time line because, again, it
 24 would have no bearing on the context of the work I
 25 was doing.

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1 Q. So, for your purposes, the cause of the
 2 fire, of whether or not someone set the fire, has no
 3 bearing on what your -- of your determination?

4 A. That's correct.

5 I mean, I specifically was asked to look
 6 at the evidence for evidence of fire causing failure
 7 defects and to be able to comment on this particular
 8 item, this HME IQ wireless transmitter, as to whether
 9 there's sufficient evidence for me to be able to rule
 10 it in or rule it out, so....

11 Q. Let's go back to the time line.

12 So Mr. Booth walked through the time line
 13 with you from the time that Mr. Diamantopoulos was at
 14 the store and the time the fire started. Is that
 15 correct?

16 A. No, that's not correct.

17 Q. Okay.

18 A. He didn't walk through the time line with
 19 me in any sense of accuracy. He just said there was
 20 some time line that placed him at the restaurant
 21 prior to, he was looking at all of that.

22 Q. Prior to the fire?

23 A. Yes, ma'am.

24 Q. And then you mentioned Walmart. What did
 25 he tell you about Walmart?

1 Q. Tell me about that discussion.

2 A. Well, not just -- just that there were
 3 financial issues, and, of course, on the 17th part of
 4 the -- part of the evidence that had been recovered
 5 were actually like -- I don't think they were bank
 6 statements. It was more like deposit slips and
 7 things like that. So it was really in the context
 8 of, you know, why would that be an interest?

9 Q. And what did Mr. Booth tell you about the
 10 financial condition of Miami Subs?

11 A. Only that there were issues. We didn't go
 12 into great detail.

13 Q. So did he just say they were having
 14 financial problems with no details?

15 MR. WIGGINS: Objection.

16 MS. DALY: You can answer.

17 MR. WIGGINS: You can answer.

18 THE WITNESS: I don't know if he put
 19 it that way, but that yes, there were financial
 20 issues, financial concerns.

21 MS. DALY: Okay.

22 THE WITNESS: The exact words I
 23 don't recall, because again, that's not relevant to
 24 what I'm doing.

25 Q. (Ms. Daly) Did you walk away from that

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1 discussion with the impression that there were
 2 financial problems with the company?

3 MR. WIGGINS: Objection.

4 MS. DALY: And you can answer.

5 MR. WIGGINS: Answer it if you can.

6 THE WITNESS: Yes.

7 Q. (Ms. Daly) Did he talk to you about the
 8 fact that there were no dumpsters located on the
 9 property?

10 A. No.

11 Q. Did he talk to you about the IRS visiting
 12 Mr. Diamontopoulos the week of the fire?

13 A. No.

14 Q. Did he tell you about numerous employees'
 15 checks bouncing the months leading up to the fire?

16 A. No.

17 Q. Did he mention any financial issue
 18 specifically?

19 A. Not that I recall.

20 Q. Leading up to the evidence inspection, do
 21 you recall any other discussions you had with Mr.
 22 Booth?

23 A. No, I don't.

24 Q. Other than Mr. McLean and Mr. Booth, did
 25 you have any other discussions with anyone between

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1 April 11th and April 17th about ---

2 A. --- Not that I recall.

3 Q. --- This case?

4 A. No.

5 Q. Did you do any evidence review of any type
 6 of documents or photographs other than walking
 7 through Mr. Booth's photos between 11th -- April 11th
 8 and April 17th?

9 A. Can I check my notes real quick?

10 Q. Sure.

11 A. Okay.

12 (Witness examined documents)

13 A. No.

14 Q. Let me go ahead and mark your notes, Mr.
 15 Booth (sic), as Exhibit 2.

16 (* Exhibit 2 was marked *)

17 Q. Other than the notes that you have
 18 provided to us, do you have any other notes in this
 19 case?

20 A. No.

21 Q. Looking at Exhibit 2, there's a date,
 22 April 11, 2013, and it states, case review with Steve
 23 Booth following receipt of assignment.

24 The case review with Steve Booth, are you
 25 -- what are you referencing in that statement?

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1 A. Only that I talked to Steve Booth on the
 2 11th about this case.

3 I know that he and Mr. McLean had talked
 4 about whether or not to retain me, about whether or
 5 not they were going to retain an engineer. I believe
 6 Steve may have even given me a heads-up that I might
 7 be getting a call. So it was really just a -- a very
 8 brief background review.

9 Q. Do you recall now anything additional that
 10 you spoke to Mr. Booth about other than what we've
 11 just spoken about ---

12 A. --- No.

13 Q. --- In the last few minutes? You have
 14 written, intercom system installed directly above
 15 point of fire origin. Origin area not in dispute.

16 Who told you about the intercom and the
 17 origin?

18 A. Booth.

19 Q. The next statement just discusses about
 20 Mr. Wiggins, the attorney requesting service/client.

21 Have you had any issues being paid for
 22 your services in this case?

23 A. No.

24 Q. And have the checks come directly from
 25 McCoy Wiggins?

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1 A. I believe so, yes.

2 Q. Who told you about the April 17th joint
 3 exam?

4 A. It could have been either Steve Booth or
 5 Trey, because after I got the assignment we swapped
 6 several emails and several phone calls to make sure
 7 that we honed in on exactly what my role was going to
 8 be in this.

9 Q. Were you told that your role was limited
 10 in this case to looking at the evidence at the
 11 inspection on April 17th?

12 A. No. It's -- the initial part of the
 13 assignment was to go participate in that joint
 14 examination and then to support, you know, further
 15 findings and discussion as appropriate.

16 Q. Okay. I understand what you did at the
 17 evidence inspection. You mentioned support further
 18 findings.

19 Have there been any other further findings
 20 that you've given opinion about since April 17th?

21 A. Only in discussion of this -- this one
 22 ion, this HME wireless set.

23 Q. Other than that, anything else?

24 A. No.

25 Q. Why have you never gone to the fire scene?

10 (Pages 34 to 37)

<p style="text-align: right;">Page 38</p> <p>1 A. Because there is no need for me to go 2 within the context of what it is that I'm doing. 3 You know, if the exhibits -- they've 4 already been pulled out as they were and made 5 available on the 17th, and this -- this other device, 6 the wireless headset device, is no longer there, no 7 longer available, there wouldn't be much use for me 8 to go to the fire scene after it's already been 9 disturbed. 10 Q. Were you --- 11 A. --- Oh, sorry. 12 Q. No, go ahead, please. 13 A. And since there were no potential fire 14 causing failures or defects in the things that I did 15 look at on the 17th, again, there would be no reason 16 for me to go back there. 17 Now I'll just add to that, that if I felt 18 the need to go back there, I would have made the 19 request and gone. 20 MS. DALY: Let's take a five-minute 21 break. 22 (2:25-2:31 p.m. - recess) 23 Q. (Ms. Daly) Okay, so we finished 24 discussing everything you did between April 11th and 25 April 17th, the evidence exam. Is that correct?</p>	<p style="text-align: right;">Page 40</p> <p>1 acknowledged that I saw them there, and that we as a 2 group, that's what we looked at. And also that those 3 originated from Mr. Lacy, and that the other items in 4 those six, there were no fire causing failures or 5 defects. 6 There was nothing notable there. 7 Q. And the x-ray -- x-ray inspection of 8 debris in paint can. 9 A. Yeah. The discussion around that was that 10 Mr. Cavarock was proposing just x-raying the contents 11 of that can. I didn't know what was in that can, and 12 having spent a lot of time looking at x-rays and 13 non-destructive techniques, the type of x-ray machine 14 you have, the qualification of the operator, whether 15 he's level one, two, three certified and so on, goes 16 directly to the confidence in what you see portrayed 17 on the screen in the x-ray. 18 So once I found out that he didn't have 19 any certification as a non-destructive inspector, I 20 only had to push to have the can physically opened at 21 the end of our inspection. So that was a note to 22 myself just to say that I want to see what's in the 23 can. 24 Q. Okay, and did you get to see what was in 25 the can?</p>
<p style="text-align: right;">Page 39</p> <p>1 A. Yes. 2 Q. So let's talk about your evidence exam on 3 April 17th. 4 In your notes you have listed six items on 5 page one of seven, six items you examined. 6 A. Yes. 7 Q. And under that it states -- can you read 8 into the record your handwriting at the bottom 9 paragraph on page one. 10 A. Sure. It says x-ray inspection of debris 11 in paint can using low load portable system. 12 Operator is not NDI certified as an x-ray 13 inspector. NDI being non-destructive inspection. 14 Q. And the inspector you are referring to is 15 John Cavarock? Is that correct? 16 A. That's correct. 17 Q. Upon the completion of your inspection of 18 these six items listed on page one, was there any 19 evidence of potential fire causing failure or defect? 20 A. No. 21 Q. So after you -- what was your conclusion 22 after inspecting these six items? 23 A. I was just really acknowledging that they 24 were there, like the six plastic Pepsi cups. 25 Somebody took the time to collect them. I just</p>	<p style="text-align: right;">Page 41</p> <p>1 A. I did. 2 Q. And what was your conclusion after you got 3 to see what was in the can? 4 A. It was mostly just debris. There was 5 nothing noteworthy in there, at least for the 6 purposes or the context of what I was doing. 7 Q. Was there any discussion between you and 8 Mr. Booth or Mr. Cavarock regarding any of these six 9 items that you haven't discussed with me already? 10 A. No. 11 Q. Did you ever have a discussion with Mr. 12 Wiggins or Mr. McLean or any attorney on behalf of 13 the plaintiff in this case regarding any of those six 14 items? 15 A. No. 16 Q. Page two of your notes. It says second 17 set of evidence collected by John. 18 Are you referring to John Cavarock? 19 A. I was. 20 Q. Okay. 21 A. To be honest, at that point I didn't 22 recall his name, so I just said John, but that's John 23 Cavarock. 24 Q. Let's walk through the items that you 25 reviewed at this evidence inspection.</p>

Page 42	Page 44
<p>1 Item one ---</p> <p>2 A. --- Was the electrical meter, service</p> <p>3 meter that John had pulled from the -- the</p> <p>4 restaurant.</p> <p>5 And also -- these are also -- the way</p> <p>6 these are laid out, they follow with the layout of my</p> <p>7 photos. I took quite a few photos during my exam,</p> <p>8 so....</p> <p>9 Q. Okay.</p> <p>10 A. It's a very brief meter, but it calls my</p> <p>11 attention back to my photos, which we'll see quite a</p> <p>12 few of the meter, for example.</p> <p>13 Q. Okay. Thank you.</p> <p>14 A. Okay.</p> <p>15 Q. Was there anything significant with the</p> <p>16 meter?</p> <p>17 A. No.</p> <p>18 Q. Was there any evidence of potential fire</p> <p>19 causing failure or defect in the meter?</p> <p>20 A. We didn't open it, but no.</p> <p>21 Q. Items two and three, you have conduits and</p> <p>22 receptors -- receptacles, excuse me.</p> <p>23 A. Receptacles, right.</p> <p>24 Q. Tell me about your findings with the</p> <p>25 conduit and receptacles.</p>	<p>1 and the descriptions, or the brief descriptions that</p> <p>2 were on his tags identifying the origin.</p> <p>3 Q. Right. And you're relying on Mr.</p> <p>4 Cavarock's identification because you were not at the</p> <p>5 evidence collection. Correct?</p> <p>6 A. That's correct.</p> <p>7 And also Mr. Booth, because there was</p> <p>8 quite a bit of discussion amongst the engineers as we</p> <p>9 were doing this, clarifying points of origin from</p> <p>10 where these parts came from and so-on. So.</p> <p>11 Q. And was Mr. Booth and Mr. Cavarock ever in</p> <p>12 disagreement over where any of these items were?</p> <p>13 A. There was discussion more so for</p> <p>14 clarification, but no, I wouldn't say disagreement,</p> <p>15 no.</p> <p>16 Q. What does your next sentence state?</p> <p>17 A. Receptacle with blue number one, in</p> <p>18 quotes, was located adjacent to drive-thru.</p> <p>19 Q. And go ahead and continue reading the next</p> <p>20 paragraph, please.</p> <p>21 A. Partial disassembly of number one</p> <p>22 receptacle revealed essentially uniform thermal</p> <p>23 damage with no obvious ohmically induced distress.</p> <p>24 Q. And what is the significance with that</p> <p>25 finding?</p>
Page 43	Page 45
<p>1 A. There were no findings. There was</p> <p>2 unremarkable, no fire causing failures or defects.</p> <p>3 Q. I'm going to get you to read your</p> <p>4 handwriting under that. It says item two.</p> <p>5 A. Okay, it says conduit/branch circuit</p> <p>6 removed from wall between office area at first</p> <p>7 drive-thru window.</p> <p>8 Q. Continue reading, please.</p> <p>9 A. Beneath that is receptacle box with</p> <p>10 remnants of plugs attached was surface mounted to</p> <p>11 office wall.</p> <p>12 Q. And what significance does that have to</p> <p>13 you?</p> <p>14 A. Just giving me the orientation of where it</p> <p>15 was and that it was on the surface of the wall.</p> <p>16 Q. And this paragraph that says item two in</p> <p>17 it ends with attached was surface to the office wall.</p> <p>18 A. Mounted?</p> <p>19 Q. Mounted to the office wall.</p> <p>20 Are you referencing the items two and</p> <p>21 three that you previously noted?</p> <p>22 A. Ah, yes. And really, you know, again,</p> <p>23 this was the first time I'd seen this evidence.</p> <p>24 As you know, since you were there, it was</p> <p>25 all bagged and tagged, so I'm relying on Mr. Cavarock</p>	<p>1 A. No evidence of a potential fire causing</p> <p>2 failure or defect within that.</p> <p>3 Q. The next is the junction box.</p> <p>4 A. Yes.</p> <p>5 Q. What does it state in the parentheses?</p> <p>6 A. Parentheses, it states reportedly</p> <p>7 installed in ceiling.</p> <p>8 Q. And did you examine the junction box?</p> <p>9 A. I did.</p> <p>10 Q. And what did you find?</p> <p>11 A. The paragraph below states, uniform</p> <p>12 thermal damage, no ohmic -- it's the symbol for ohms</p> <p>13 -- ohmic distress. Removal of conduit.</p> <p>14 Q. Before you go on, what's the significance?</p> <p>15 A. No electrical distress, no ohmically</p> <p>16 induced heating.</p> <p>17 Q. All right, so go ahead and continue,</p> <p>18 please.</p> <p>19 A. Removal of conduit, parentheses, blue zip</p> <p>20 tie, is the way it was identified ---</p> <p>21 Q. --- Right.</p> <p>22 A. --- As an exhibit.</p> <p>23 So removal of conduit, blue zip tie, to</p> <p>24 expose three solid copper conductors to one of two</p> <p>25 branches to top of junction box revealed uniform</p>

<p style="text-align: right;">Page 46</p> <p>1 thermal damage with no -- the symbol for ohms -- no 2 ohmically induced distress. And it also says below 3 that uniform oxidation.</p> <p>4 Q. So again, what is the significance of that 5 finding ---</p> <p>6 A. --- No evidence of ---</p> <p>7 Q. --- To you?</p> <p>8 A. --- Electrical distress or potential fire 9 causing failure or defect.</p> <p>10 Q. On page three, can you read the first 11 paragraph.</p> <p>12 A. Okay, it says side flex conduit 13 terminating at duplex with remnants of plugs still 14 retained. Exhibits evidence of aluminum alloying 15 right at side of box body.</p> <p>16 Q. What was your findings?</p> <p>17 A. Okay. There was some -- some localized 18 deformation of the copper conduit that's the result 19 of a eutectic melting process where it's effectively 20 contaminated the copper with molten aluminum to form 21 new alloy, and that's the reason that I believe the 22 distortion is there.</p> <p>23 It is not indicative of electrical 24 distress or any potential fire causing failure or 25 defect. It simply explains the apparent melting and</p>	<p style="text-align: right;">Page 48</p> <p>1 to consensus that receptacle box was in the wall. 2 Q. So why was that decision made? 3 A. Because the -- as installed, the box was 4 recessed into the wall, so it was protected from the 5 fire.</p> <p>6 Q. Were you in agreement?</p> <p>7 A. I was.</p> <p>8 Q. What does the last paragraph on page three 9 state?</p> <p>10 A. Orange zip tied segments of conduit was 11 attached to junction box but was empty. 12 So I'm just making the point that there 13 was one section of conduit that was -- there's 14 nothing in it, so no wires to look at.</p> <p>15 Q. Anything else significant ---</p> <p>16 A. --- No.</p> <p>17 Q. --- About that piece of evidence?</p> <p>18 A. (Witness indicated negatively)</p> <p>19 Q. Okay. If you could read into evidence the 20 next paragraph, on page four.</p> <p>21 A. Disassembly of duplex junction box with 22 remnants of plug revealed essentially uniform thermal 23 damage, parentheses, minimal, with combustible 24 materials present and existing only superficial 25 melting of plastic and discoloration.</p>
<p style="text-align: right;">Page 47</p> <p>1 deformation localized.</p> <p>2 Q. Go ahead and read the next paragraph.</p> <p>3 A. Removal of steel conduit with blue zip tie 4 revealed no localized thermal damage or, the symbol 5 for ohms, or ohmically-induced distress.</p> <p>6 Q. Again, the significance of that finding?</p> <p>7 A. No evidence of electrical distress or 8 potential fire causing failure or defect.</p> <p>9 Q. Please read into evidence the next 10 statement. And I apologize I'm making you read 11 these, but there's no way in the world I'm going to 12 be able to go back and read your handwriting. But no 13 one could read mine, either.</p> <p>14 A. I understand.</p> <p>15 Removal of steel conduit from bottom of 16 junction box, parentheses, yellow zip tie, revealed 17 uniform thermal damage with no ohmic, symbol again, 18 ohms symbol, no ohmically induced distress.</p> <p>19 Q. And what is the significance of that 20 finding?</p> <p>21 A. No evidence of electrical distress or 22 potential fire causing failure or defect.</p> <p>23 Q. What does the next paragraph state?</p> <p>24 A. Decision not to expose conductors within 25 steel conduit connected to receptacle number one due</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. What was the significance of your finding?</p> <p>2 A. Again, no electrical distress. Some 3 localized thermal -- thermal damage, but it was 4 superficial in nature, and consistent with exposure 5 to fire rather than from within the junction box as a 6 source of heat.</p> <p>7 Q. The next paragraph, item three.</p> <p>8 A. Item three, branch circuit. It says three 9 duplex receptacle outlets, branch circuit conductors, 10 slash, raceways, removed from service entrance, east 11 corner of building.</p> <p>12 Q. And did you find any fire causing failure 13 or defect in item three?</p> <p>14 A. No.</p> <p>15 Q. Please continue reading.</p> <p>16 A. Okay. Parentheses -- in parentheses under 17 that paragraph was the number two and number three as 18 they were identified were located near the origin in 19 wall to the right.</p> <p>20 Q. You can continue reading.</p> <p>21 A. Okay. Disassembly of receptacle marked as 22 number two, in quotes. Minimal thermal damage, 23 combustible materials intact.</p> <p>24 No evidence of localized thermal damage 25 or, the symbol for ohms, ohmically-induced distress.</p>

<p style="text-align: center;">Page 50</p> <p>1 Q. Again, the significance of that is that 2 there was no potential fire causing failure or 3 defect? 4 A. That's correct. 5 Q. Please continue reading. 6 A. Disassembly of receptacle marked as three, 7 in quotations, similar thermal damage to number two, 8 in quotations. No evidence of localized damage or, 9 the ohm symbol again, ohmically-induced distress. 10 Q. And what was the significance? 11 A. No electrical distress, no fire causing 12 failures or defects in the exhibit. 13 Q. And what is the next? 14 A. Disassembly of unmarked receptacle located 15 in, quotation marks, office. 16 Q. And what does the last sentence state? 17 A. Similar thermal damage as in number two 18 and number three above. 19 Q. And again, does that mean that there was 20 no potential fire causing failure or defect? 21 A. Yes. 22 Q. Items one through three that we just 23 discussed that were taken by John Cavarock, were 24 there any discussions between you and Mr. Cavarock 25 regarding those items?</p>	<p style="text-align: center;">Page 52</p> <p>1 A. Sure. 2 Q. And what did you tell him? 3 A. That there were no -- there's no evidence 4 of a fire causing failure or a defect within any of 5 those items examined. 6 Q. And would you agree with me that Mr. Booth 7 would have to rely on your expertise as the 8 electrical engineer to determine whether or not there 9 was an electrical failure --- 10 A. --- Well, I'm a --- 11 Q. --- That caused the fire? 12 A. --- Mechanical engineer --- 13 Q. --- Right. 14 A. --- With a lot of experience looking at 15 electrical things, but yes, he would rely on me for 16 the engineering opinion. 17 Q. Right. And that would be appropriate --- 18 A. --- Yes. 19 Q. --- For him to rely on you. Is that 20 correct? 21 A. For the engineering opinion, yes. 22 Q. Right. Okay, let's talk about item four, 23 the DVR and switch. 24 I'm going to get you to read the next two 25 sentences because I can't read it.</p>
<p style="text-align: center;">Page 51</p> <p>1 A. Not specifically between us, but there was 2 just general discussion during the course of this 3 that we were talking about where the exhibits came 4 from. 5 There was some clarification, those sort 6 of things, but nothing of significance to my 7 findings. 8 Q. How about with you and Mr. Booth? Did you 9 explain to Mr. Booth -- first -- strike that. 10 Is Mr. Booth an electrical engineer? 11 A. No. 12 Q. Is he an engineer? 13 A. No. 14 Q. So when you were looking at items one 15 through three, did you discuss your findings with Mr. 16 Booth? 17 A. I did that day. As to whether or not we 18 stopped after item three or after every item and, you 19 know, had a caucus, no, we didn't. I mean, we just 20 pressed through the inspection. 21 Q. I understand that. I'm talking about at 22 any point in time, did you discuss items one through 23 three with Mr. Booth? 24 A. Oh, after the 17th? 25 Q. Yes. Or on or after.</p>	<p style="text-align: center;">Page 53</p> <p>1 MR. WIGGINS: Page five. 2 THE WITNESS: Yeah. 3 MR. WIGGINS: Thank you. 4 THE WITNESS: I lost it there. 5 It says beneath the statement DVR and 6 switch, it says, secondary exterior fire damage. 7 Q. (Ms. Daly) And what does that mean? 8 A. That the thermal damage exhibited by the 9 DVR and the switch was consistent with exposure to 10 heat externally rather than internally. 11 Q. Uh-huh. 12 A. And that it's secondary. 13 Q. And what does the next statement say? 14 A. The next line says -- that says MFG -- 15 that's abbreviation for manufacturer's details in 16 photos. 17 Q. And what's the significance about your 18 finding with the DVR and the switch? 19 A. There was no evidence of a potential fire 20 causing failure or defect. It was -- all the damage 21 was as a result of exposure to the fire. 22 Q. There was, during that examination, a 23 power supply that went to the DVR system, and there 24 was a point where everyone stopped and you and Mr. 25 Booth stepped away, and I believe Mr. Booth made a</p>

<p style="text-align: center;">Page 54</p> <p>1 phone call at that time and the two of you stepped 2 outside and had a discussion. 3 Do you recall what that discussion was 4 about? 5 A. No. A power supply? 6 Q. Right. A plug. 7 A. Yes, I do recall that. 8 Q. And --- 9 A. --- The discussion was whether or not the 10 plug was -- was -- that the item was plugged in at 11 the time of the fire --- 12 Q. --- And what was your finding? 13 A. That that particular cord was not. 14 Q. Was not plugged into the wall --- 15 A. --- That's right. 16 Q. --- At the time of the fire. And how were 17 you able to determine that? 18 A. By essentially uniform patterns of 19 oxidation and discoloration from exposure to the 20 heat. If it had been plugged in, you would have seen 21 non-uniform patterns. 22 Q. Tell me everything you recall about the 23 discussion with Mr. Booth regarding that plug. 24 A. That was really the gist of it, the fact 25 that the plug wasn't plugged in, and I guess there</p>	<p style="text-align: center;">Page 56</p> <p>1 system video. 2 Q. And you keep saying if. 3 A. Well, I understand --- 4 Q. --- Was there ever any evidence that it 5 wasn't? 6 A. Not presented on the 17th. I was told at 7 a later date that that wasn't, that that was an old 8 system. 9 But again --- 10 Q. --- That it was an old surveillance 11 system? 12 A. Or part of one, yes. But again, it has no 13 bearing on --- 14 Q. --- I understand that. 15 A. --- My part in this. 16 Q. --- But I still want to know everything 17 that's been told to you. 18 A. I understand. But I don't want you to 19 understand that I'm not listening all that hard when 20 I'm hearing it because it doesn't have any bearing on 21 what I'm doing. 22 Q. I understand. So let's stick with the 23 17th. 24 A. Okay. 25 Q. Anything else you can recall Mr. Booth</p>
<p style="text-align: center;">Page 55</p> <p>1 was some discussion as to whether this was the -- 2 part of the video security -- part of the security 3 system or not. 4 Q. Where were you told that this item was 5 found? 6 A. I don't recall. 7 Q. And when you and Mr. Booth talked, did Mr. 8 Booth tell you the significance of the fact that the 9 surveillance equipment was unplugged at the time of 10 the fire? 11 A. Only that if this was, in fact, the -- the 12 video system, that that was strange, or abnormal, 13 noteworthy. 14 Q. Did you make a phone call after that item 15 was inspected on that date? 16 A. No. 17 Q. Did Mr. Booth? 18 A. I don't know. 19 Q. Did he tell you that he called anyone 20 after finding that piece of evidence? 21 A. I don't recall specifically. 22 Q. Do you recall Mr. Booth's reaction to the 23 plug? 24 A. Surprise. I think that was not a finding he was expecting if that was in fact the security</p>	<p style="text-align: center;">Page 57</p> <p>1 saying to you about the plug that was not plugged 2 into the wall? 3 A. Well, I mean, he -- he thought it was 4 important. He thought it was relevant. 5 You know, he certainly wanted to -- to 6 document that and to make sure that he understood it. 7 As to how he was going to use that and how it fits 8 into his investigation, I don't know. 9 Q. All right, I understand. 10 Were you ever told that there was evidence 11 that on the day of the fire the surveillance system 12 had been turned off, according to witness statements? 13 A. I do know that the statement was made that 14 it was not operating, but I don't recall. It may 15 have even -- I may have even read that in a report. 16 Q. Okay. 17 A. It may have been in Mr. Lacy's report, but 18 I've also heard that. 19 Q. From Mr. Booth? 20 A. I believe so. 21 Q. How about from the attorneys? 22 A. No, I don't recall that. 23 Q. I appreciate you sticking to the day of the August 17th, however, right now I would like to 24 talk about any discussions you have had after August 25</p>

<p style="text-align: right;">Page 58</p> <p>1 17th with anyone about the DVR system and the plug 2 that was inspected on April 17th.</p> <p>3 So is it clear what I -- the topic of 4 discussion I want to stick to?</p> <p>5 A. Yes.</p> <p>6 Q. Okay, so let's --</p> <p>7 A. --- I see where you want to go. I'm 8 just....</p> <p>9 Q. Okay, so let's first start with Mr. Booth.</p> <p>10 A. Okay.</p> <p>11 Q. What discussions have you had with Mr. 12 Booth about the plug that was not plugged into the 13 wall that you discovered at the April 17th 14 examination?</p> <p>15 A. Only what I've already told you that we've 16 already gone over.</p> <p>17 Q. If you don't mind -- and I apologize. I'm 18 not trying to ask a question you're already answered. 19 I must have missed it.</p> <p>20 So exactly what was said to you about the 21 DVR system and the plug to that DVR system?</p> <p>22 A. That he was surprised when that was found.</p> <p>23 Q. Right.</p> <p>24 A. Now, I understand from the discussions 25 that we've had since then that that's an old system,</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. I understand. And Mr. Booth told you 2 that?</p> <p>3 A. That's my recollection, yes.</p> <p>4 Q. And who told Mr. Booth that there was this 5 old system and new system at the property?</p> <p>6 A. I don't know. As the cause and origin 7 investigator, he's doing a lot more legwork, you 8 know, working the background more so than I am, so -- 9 but I don't know.</p> <p>10 Q. So he never told you how he found out that 11 information?</p> <p>12 A. No.</p> <p>13 Q. Anything else that you recall that Steve 14 Booth told you about the DVR system?</p> <p>15 A. No.</p> <p>16 Q. Have you had a discussion with anyone 17 else, other than Mr. Booth, regarding the DVR system?</p> <p>18 A. No.</p> <p>19 Q. Did you have a discussion with Mr. 20 Cavarock?</p> <p>21 A. Not that I recall, no.</p> <p>22 Q. Did you have a discussion with anyone from 23 McCoy Wiggins?</p> <p>24 A. Only that there was no evidence of a fire 25 causing failure or defect, which is what I was there</p>
<p style="text-align: right;">Page 59</p> <p>1 that there was another system, a newer system, a 2 replacement.</p> <p>3 Q. So let's be clear.</p> <p>4 Mr. Booth told you that there were two 5 systems, two surveillance systems located on the 6 property at Miami Subs on the date of the fire?</p> <p>7 A. No. What he's told me -- or my 8 understanding of what he said was that what we had 9 there was part of an older system, that a newer 10 system had been installed. So that doesn't mean 11 there are two up and running systems.</p> <p>12 Q. I understand.</p> <p>13 A. That's not what I'm trying to imply, 14 so....</p> <p>15 Q. I understand that.</p> <p>16 A. Okay.</p> <p>17 Q. But you are implying that there was an 18 older system just left in place in addition to this 19 newer system?</p> <p>20 A. That's my understanding.</p> <p>21 Q. Okay.</p> <p>22 A. But again, I wouldn't hold to that because 23 ---</p> <p>24 Q. --- I understand.</p> <p>25 A. --- To get clarification.</p>	<p style="text-align: right;">Page 61</p> <p>1 to look for.</p> <p>2 Q. I understand.</p> <p>3 Anything about the DVR system specifically 4 that you recall discussing with anyone from McCoy 5 Wiggins?</p> <p>6 A. No.</p> <p>7 Q. Item five.</p> <p>8 A. Okay. Electronics and cords removed from 9 southwest wall of office. Assorted electronic 10 components, power supplies and apparent routers with 11 secondary fire damage consistent with exposure to 12 external -- and I've got q with a dot over it for 13 heat rate, heat flux, or just external heat.</p> <p>14 Two circuit boards loose in debris appear 15 to be remnants of router not believed to be part of 16 communication system, slash, headsets.</p> <p>17 Q. How did you determine that it was not 18 believed to be part of the communication system 19 headsets?</p> <p>20 A. The -- the makeup of the boards, the 21 physical size, was inconsistent.</p> <p>22 Q. Anything else besides the physical size?</p> <p>23 A. Also the makeup of the boards. I mean, it 24 was clear that they -- they had LAN interfaces that 25 would be part of a cable system for a router. It</p>

<p style="text-align: right;">Page 62</p> <p>1 looked consistent with the router. 2 I believe Mr. Cavarock stated he thought 3 they were router components as well as sort of a 4 consensus as we went through the components, for 5 where they came from and generally what the 6 identification was, right down to trying to find 7 manufacturers, identifiers, and so on on the stuff. 8 Q. Were you able to find manufacturer 9 identifiers? 10 A. On some components, but not on certainly 11 the circuit boards. 12 Q. Right. Anything else? 13 A. No. 14 Q. And what significance? 15 A. Again, it was all exposure to -- the 16 thermal damage was a result of the exposure to 17 externally applied rather than internally or 18 ohmically-generated heating. So no fire causing 19 failures or defects apparent. 20 Q. Item six. 21 A. Okay, that says alarm panel and URS 22 removed from --- 23 Q. --- What does URS stand for? 24 A. I'd have to look at my photos to get a 25 good look at what I abbreviated there.</p>	<p style="text-align: right;">Page 64</p> <p>1 position indeterminate. 2 Q. Did you find any evidence of potential 3 fire causing failure or defect in item six? 4 A. No. 5 Q. And have we exhausted anything else you 6 recall about the plug? 7 A. Yes, we have. 8 Q. Item seven. 9 A. It says monitor removed from southwest 10 wall. It says unremarkable. 11 Q. Again, any evidence of potential fire 12 causing failure or defect? 13 A. No. 14 Q. Item eight. 15 A. HP printer. And below that it says 16 secondary thermal damage. And then, again, below 17 that it says unremarkable. 18 Q. Again, any evidence of potential fire 19 causing failure or defect? 20 A. No. 21 Q. Item nine. 22 A. Item nine was a deposit ticket book, and 23 then for me, again, underneath that it says 24 unremarkable. 25 Q. How about item 10?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. You can continue reading. 2 A. Oh, okay. I didn't know if you wanted me 3 to look at photos. 4 Q. No. 5 A. Okay. All right, so removed from 6 southwest wall of office. 7 And then beneath that it says actually 8 determined to be the power supply for the security 9 camera system. 10 Trace of power --- 11 Q. --- Is that what we've been discussing 12 today? 13 A. That's what we were discussing earlier 14 rather than --- 15 Q. --- In reference to item four? 16 A. --- DVR and switch, yes. Yeah. 17 Q. Please continue. 18 A. So it says trace of power cord, two power 19 strip, established the camera system was unplugged, 20 not powered, and cord blades were oxidized, 21 discolored, consistent with the exposure to fire in 22 the unplugged state. 23 Power switch housing for camera system was 24 compromised by thermal damage resulting in release of 25 one contact and the actuating spring, making switch</p>	<p style="text-align: right;">Page 65</p> <p>1 A. It says debris pile items recovered 2 between drive-thru windows. And beneath that it says 3 monitor, keyboard and molten slag with two, quotation 4 mark, D cell batteries. 5 Q. Were you able to determine where the two D 6 cell batteries came from, other than the pile of 7 debris? 8 A. No. 9 Q. What actual instrument they came from --- 10 A. --- No. 11 Q. --- At the time of the fire? 12 And was there anything significant about 13 item 10? 14 A. No. 15 Q. And again, was there any potential fire 16 causing failure or defect? 17 A. No. 18 Q. You have a telephone number on the back of 19 page six, 301-620-6758. 20 A. Okay. 21 Q. Can you tell me whose number that is? 22 A. That's probably one of my engineers up at 23 Pax River, which has nothing to do with this case. I 24 just wrote down a telephone number somewhere I 25 shouldn't have.</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. And are you the only engineer from your 2 company who has reviewed any of the evidence in this 3 case? 4 A. Yes. 5 Q. Item 11. 6 A. End of fluorescent tube and strands of 7 wire. 8 Q. Did you find anything significant about 9 item 11? 10 A. No. 11 Q. Was there any potential fire causing 12 failure or defect in item 11? 13 A. No. 14 Q. Item 12. 15 A. Cover plate receptacle. 16 Q. Again, any potential fire causing failure 17 or defect? 18 A. No. This was literally just the cover 19 plate for a receptacle, so -- but no. 20 Q. Any evidence on that that there was --- 21 A. --- No. 22 Q. --- Any type of failure? 23 And what does your next paragraph say? 24 A. The word underlined is Lacy's, and it 25 refers back to Terry Lacy's evidence, and it says,</p>	<p style="text-align: right;">Page 68</p> <p>1 evidence that there might be something there. 2 Q. And did you find evidence of the remnants 3 of the headset? 4 A. The headsets, no, but of the circuit 5 boards for the.... 6 Q. Base station? 7 A. The base station, yes. 8 But I was actually pointed to those by Mr. 9 Booth, I think, and Mr. McLean. They -- you'll see 10 in the notes that come up. 11 Q. And that was after your evidence 12 inspection on April 17th? 13 A. Yes. As far as when the photographic 14 evidence of the remains of the base station appeared, 15 yes. 16 Q. Of the circuit boards? 17 A. Yes. 18 Q. Is that what you're referring to? 19 A. Yes, ma'am. 20 Q. I wanted to get your opinion regarding the 21 evidence inspection. 22 After inspecting all of the evidence that 23 was present on April 17th, 2013, did you find any 24 evidence of a potential fire causing failure or 25 defect at that inspection?</p>
<p style="text-align: right;">Page 67</p> <p>1 item one, paint can opened and sifted. Nothing 2 remarkable. 3 Q. And nothing remarkable, does that mean 4 there was no potential fire causing failure or 5 defect? 6 A. Nothing that I could see that was there. 7 I mean, it was -- I know others probably took samples 8 and things like that, but from my perspective, no. 9 Q. And tell me your conclusions? 10 A. It says no evidence of a potential fire 11 causing failure or defect within the evidence 12 available in the exhibit provided, or exhibits 13 provided. There's an S in there. 14 Item two is no evidence of remnants of 15 reported headset intercom system within exhibits 16 provided. 17 Q. Before we continue further into your 18 notes, why did you review the photos of Booth, Mr. 19 Lacy and Mr. Martini? 20 A. At which time? Just in general? 21 Q. In general. 22 A. Well, specifically there was a question as 23 to the whereabouts of this headset or the remains of 24 it, and so I went through certainly Martini's 25 photographs and Lacy's photographs looking for any</p>	<p style="text-align: right;">Page 69</p> <p>1 A. No, I did not. 2 Q. Let's look at the last page of your notes. 3 There's not a page number on it. 4 It starts off with Troy McLean, phone call 5 May 17th, 2013. 6 A. Yes. 7 Q. Can you tell me -- are these your notes of 8 your understanding from the phone call that you had 9 from -- with Mr. McLean? 10 A. They are. It was really just a case 11 status for, you know, how I maintain my file, just so 12 I know where I left it. 13 Q. Okay, will you read to me that paragraph. 14 A. It says Trey McLean, phone call 5-17-13. 15 No need for report at this time. 16 I provided synopsis of findings and 17 observations during destructive exam on 4-17. Quote, 18 no evidence of potential fire causing failures or 19 defects within evidence presented for examination, 20 end quote. Excuse me. 21 Trey was going to try and locate technical 22 specifications for the transmitter in question for 23 analysis to identify potential fire causing failures 24 or defects. 25 Q. And when he's talking about the</p>

Page 70	Page 72
<p>1 transmitter, is he referring to the base station?</p> <p>2 A. Really of the whole system.</p> <p>3 Q. The whole system.</p> <p>4 A. And I was asking for that, because I would</p> <p>5 use that to drive my failure modes and effects</p> <p>6 analysis if it was going to be pursued.</p> <p>7 Q. Did he locate the technical</p> <p>8 specifications?</p> <p>9 A. He located pretty much a brochure on the</p> <p>10 item which then gave me the model number and so-on.</p> <p>11 Then I was able to do additional research to find the</p> <p>12 information I needed, or some of the information I</p> <p>13 needed.</p> <p>14 Q. You said some of the information you</p> <p>15 needed.</p> <p>16 What information were you able to find?</p> <p>17 A. What I found was just very basic operating</p> <p>18 characteristics, you know, so many volts, so many</p> <p>19 amps. It's big, you know, in terms of size, weight,</p> <p>20 basic operating characteristics.</p> <p>21 And then I was also able to find a couple</p> <p>22 of manuals, one for this as well as one for a similar</p> <p>23 system for the batteries, just to get a feel for the</p> <p>24 construction of the battery charger and the base</p> <p>25 station itself.</p>	<p>1 or mechanisms to ground or convergence.</p> <p>2 I don't have any evidence to evaluate, so</p> <p>3 -- an analytical analysis on its own isn't really</p> <p>4 much help. It just tells you about the design. You</p> <p>5 need the artifact to actually close the loop on it.</p> <p>6 Q. During your research on this specific base</p> <p>7 station, the HME Ion IQ wireless drive-thru audio</p> <p>8 system, did you find any evidence during your</p> <p>9 research that there had been any type of</p> <p>10 manufacturing defect in this product?</p> <p>11 A. No.</p> <p>12 Q. Did you find any evidence that there had</p> <p>13 been a design defect in this product?</p> <p>14 A. No.</p> <p>15 Q. Did you find any evidence of any</p> <p>16 electrical failures with this HME Ion IQ wireless</p> <p>17 audio system?</p> <p>18 A. No.</p> <p>19 Q. Did you have a discussion with Mr. McLean</p> <p>20 or Mr. Wiggins after April 17th, 2013?</p> <p>21 A. Well, yes. Perhaps you're referring to</p> <p>22 May 17th, after May 17th?</p> <p>23 Q. Yes.</p> <p>24 A. Okay.</p> <p>25 Q. I apologize. I misspoke. Yes.</p>
<p style="text-align: center;">Page 71</p> <p>1 Q. What were you not able to find that you</p> <p>2 needed?</p> <p>3 A. I certainly would have liked, if I were</p> <p>4 going to derive that sort of analysis to identify</p> <p>5 plausible failure modes and mechanisms in the unit,</p> <p>6 then I would need to see the basic drawings or</p> <p>7 schematics for the circuit cards so I could identify</p> <p>8 component level board failures, that would be of</p> <p>9 interest.</p> <p>10 Q. And without that information are you able</p> <p>11 to -- strike that.</p> <p>12 Would you have needed that information to</p> <p>13 provide any more of an expert opinion on the base</p> <p>14 station?</p> <p>15 A. No. I could take what I have and I could</p> <p>16 still generate a high level of failure modes and</p> <p>17 effects analysis, but it wouldn't go to the</p> <p>18 individual component ---</p> <p>19 Q. --- Did you do that?</p> <p>20 A. No, I did not.</p> <p>21 Q. And why did you not do that?</p> <p>22 A. Because at this time -- the purpose of</p> <p>23 doing that analysis would be to then identify</p> <p>24 supporting and refuting evidence within the evidence</p> <p>25 to, you know, drive each one of the plausible modes</p>	<p style="text-align: center;">Page 73</p> <p>1 Did you have a conversation between May</p> <p>2 17th, 2013, and May 29, 2013, with either Mr. McLean</p> <p>3 or Mr. Wiggins?</p> <p>4 A. I don't have notes on it. We may have</p> <p>5 exchanged emails, because a lot of the communication</p> <p>6 has been through email ---</p> <p>7 Q. --- Okay.</p> <p>8 A. --- As well.</p> <p>9 Q. You have provided to me two emails.</p> <p>10 Have there been any other emails besides</p> <p>11 the two emails?</p> <p>12 A. I would expect so, yes.</p> <p>13 Q. Will you provide all of the emails either</p> <p>14 you have received or sent to Mr. Wiggins to provide</p> <p>15 to me at the close of this deposition?</p> <p>16 A. Sure, yes.</p> <p>17 Q. Okay, and on the record, will you state</p> <p>18 that you will not delete any communications from your</p> <p>19 computer?</p> <p>20 A. Yes.</p> <p>21 Q. So the next documented communication you</p> <p>22 have is an email dated May 29th, 2013, from Mr.</p> <p>23 McLean?</p> <p>24 A. Yes.</p> <p>25 Q. I'll mark it as Deposition Exhibit 3.</p>

<p>1 (* Exhibit 3 was marked *)</p> <p>2 Q. Do you recall having a discussion with Mr.</p> <p>3 McLean prior to him sending this May 29th email?</p> <p>4 A. I don't recall.</p> <p>5 Q. Did you have any discussions with Mr.</p> <p>6 Booth prior to you writing your report, between the</p> <p>7 evidence exam on April 17th and May 29th?</p> <p>8 A. I don't recall specifically, although I</p> <p>9 would expect we probably did have conversations over</p> <p>10 that span.</p> <p>11 Q. Did you ever talk to Mr. Booth about the</p> <p>12 contents of your report?</p> <p>13 A. Not beyond what I've already conveyed here</p> <p>14 today in terms of my findings and opinions.</p> <p>15 Q. In the email dated May 29th from Mr.</p> <p>16 McLean, he asks you, could you also say that it is</p> <p>17 possible that the circuit boards were represented in</p> <p>18 the picture number 33 in Martini's report?</p> <p>19 Do you see that question posed to you?</p> <p>20 A. I do.</p> <p>21 Q. Did Mr. Booth or Mr. McLean show you the</p> <p>22 photograph 33?</p> <p>23 A. Yes.</p> <p>24 Q. And prior to them showing you photograph</p> <p>25 33 of those circuit boards, did you find that photo</p>	<p>1 Q. And did he ever provide you a clear</p> <p>2 picture?</p> <p>3 A. The next thing I got was a blown-up</p> <p>4 version of the original just on a power point slide,</p> <p>5 but it wasn't -- it didn't have any better fidelity</p> <p>6 or granularity to it. It was just a bigger blow up.</p> <p>7 He tried. Somebody tried. But it wasn't what I</p> <p>8 needed.</p> <p>9 Q. Did you tell him it's not what I need to</p> <p>10 make the determination, can you get me a better</p> <p>11 quality ---</p> <p>12 A. --- Yes.</p> <p>13 Q. --- Picture?</p> <p>14 A. I asked for better quality.</p> <p>15 Q. Okay. And have you received anything from</p> <p>16 Mr. McLean or anyone from McCoy Wiggins since then?</p> <p>17 A. I'd have to go back and look at my email</p> <p>18 files, but eventually I did get photographs, and then</p> <p>19 they're also in Mr. Martini's report. I was able to</p> <p>20 see what he had there as well, so....</p> <p>21 Q. Were those photos clearer than the ones</p> <p>22 you had originally received?</p> <p>23 A. A little bit, but not much. But it's</p> <p>24 enough to where you can make it out.</p> <p>25 At this point, you know, we were still</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 78</p> <p>1 A. --- Well, wait. No, that's not my 2 opinion. 3 Q. So let's break that down. 4 A. Okay. 5 Q. Have you found any evidence to date that 6 there was an electrical failure at Miami Subs on 7 January 24th, 2012? 8 A. No, I have not. 9 Q. So even though you have not found any 10 evidence of an electrical failure, is it your opinion 11 that there was an electrical failure at Miami Subs on 12 January 24, 2012? 13 A. No. 14 Q. So tell me exactly what is your opinion 15 regarding the evidence that you have reviewed, 16 including photographs, any of the items that you've 17 seen regarding any evidence of failure at Miami Subs? 18 A. It's my opinion that for the items that 19 were made available to me for examination on the 17th 20 that there is no evidence of a potential fire causing 21 failure or defect within those items. 22 It's my understanding that the Ion --- 23 Q. --- I'm going to stop you right there 24 before you go further. 25 A. Okay.</p>	<p>1 Q. And you went through hundreds of photos 2 and reviewed those and you found no evidence of an 3 electrical failure that could have caused the fire at 4 Miami Subs on January 24, 2012? 5 A. Yes. 6 Q. Is that correct? 7 A. That is correct. 8 Q. Is there anything else you reviewed that 9 you used to eliminate any other type of electrical 10 failure at Miami Subs? 11 A. I'm not sure what you mean by anything 12 else that I used. 13 Q. Any other documents --- 14 A. --- Are you asking me documentation --- 15 Q. --- Yes. 16 A. --- Or calculations or analysis --- 17 Q. --- Did anybody show -- you mentioned a 18 Power Point. That's the first time --- 19 A. --- Oh, okay. 20 Q. --- I've heard of a Power Point. So did 21 someone do a Power Point presentation to you of this 22 fire scene? 23 A. Oh, okay. No. That was simply one slide 24 that had this one image. I think it was 33, whatever 25 it was we just talked about earlier. That's all that</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. You specifically limit it to the items 2 that you reviewed on April 17th. 3 You've also been provided hundreds of 4 pictures. Is that correct? 5 A. Yes. 6 Q. Going through those hundreds of pictures 7 that were taken at the scene, did you find any 8 evidence of a fire causing failure or defect? 9 A. No. 10 Q. Any other, either photographs, documents, 11 anything, items that you've reviewed? 12 Have I covered everything that you've 13 reviewed, then, to determine that there is no 14 evidence that you have seen that there was an 15 electrical failure at Miami Subs? 16 A. Okay. I'm not really sure I'm 17 understanding where you're going with that question. 18 Q. Well, you said that in the actual evidence 19 the items -- let's call that the items you inspected 20 --- 21 A. --- Yes. 22 Q. --- On April 17th, there was no evidence 23 of an electrical failure that could have caused a 24 fire. Correct? 25 A. That's correct.</p>	<p>1 was there. 2 Q. Okay. 3 A. It was just on a PowerPoint slide --- 4 Q. --- Okay. 5 A. --- But there wasn't a full PowerPoint. 6 Q. Okay, so anything else other than the 7 items, the photographs, anything else that you 8 reviewed or items that you held in your hand that you 9 used to determine there was not electrical failure at 10 Miami Subs on January 24, 2012? 11 A. No. There wasn't anything else that I 12 used to do that. 13 Q. Do you want a five-minute break? We've 14 been going for another hour. 15 A. I'm good. 16 Q. Okay. Your report spends a significant 17 time, as well as your invoice, on this Ion IQ 18 wireless drive-thru audio system. 19 Were you ever shown at the scene where 20 this wireless system was located prior to the fire? 21 A. In -- I've never been to the scene, but in 22 the photographs of the scene it's my understanding it 23 was in the upper right corner by the drive-thru 24 window. 25 And I've since also seen that -- I don't</p>

<p style="text-align: center;">Page 82</p> <p>1 know if it's Martini's or Lacy's report -- I believe 2 it's Martini's -- actually has it highlighted as 3 well. So I'm aware of where it was. 4 Q. And do you dispute that that was the 5 location where it was located? 6 A. No. 7 Q. Is the location of where it is located 8 relevant to your analysis? 9 A. Only in the sense that we now have the 10 evidence that it had substantial thermal damage, and 11 it was at or within the area of origin. 12 And it was not available for -- for me to 13 take a look at on the 17th, so it's relevant in the 14 sense that there's something there that's 15 electrically energized that I am unable to -- to -- 16 to exclude. 17 Q. And are you qualified to determine whether 18 or not the location of this audio box and where it 19 was located, of the fire pattern that it would have 20 caused if it, the actual audio box, was the ignition 21 source for the fire? 22 A. No. 23 (* Exhibit 4 was marked *) 24 Q. I'm handing you what I've marked as 25 Exhibit 4.</p>	<p style="text-align: center;">Page 84</p> <p>1 it's from the audio system? 2 A. Yes. 3 Q. Have you ever spoken to Mr. Martini 4 regarding his exam of those circuit boards? 5 A. No. 6 Q. Have you ever talked about -- to Mr. Booth 7 regarding his exam of those circuit boards? 8 A. To my knowledge Mr. Booth has not had the 9 opportunity to examine those boards. So that's my 10 understanding. 11 Q. And do you know what happened to the 12 circuit boards? 13 A. I do not. 14 Q. Were you ever told what happened to 15 anything that was located at Miami Subs after the 16 completion of the investigation in January of 2012? 17 A. Well, I was told that Mr. Lacy had taken 18 into custody the exhibits that he had collected, and 19 then later Mr. Cavarock had done his inspection, at a 20 much later date, and had taken exhibits into custody 21 as well. 22 So my understanding was that all of the 23 exhibits were taken into the custody of either one of 24 those two gentlemen. 25 Q. And how about all the other -- I mean,</p>
<p style="text-align: center;">Page 83</p> <p>1 Is it your testimony to a reasonable 2 degree of certainty that the item located in 3 photograph 33, that is the second item from the left, 4 is the circuit boards from the HME Ion IQ wireless 5 device? 6 A. Yes. 7 Q. Tell me how you determined that that item 8 was from the audio system base station? 9 A. By the approximate length and width 10 dimensions that were inferred, I guess, from the 11 other images and the document. 12 Also by the general construction or the 13 layout number of boards. It looked to be visually 14 consistent with what I would expect for the base 15 station. 16 Q. So, at trial, is it your understanding 17 that one of your purposes is to tell the jury that, 18 in your opinion, this circuit board came from the 19 audio system? 20 A. I will certainly tell them it is 21 consistent with the audio system. 22 Q. Okay. 23 A. Yes. 24 Q. Okay, and do you plan to testify under 25 oath, that to a reasonable degree of certainty, that</p>	<p style="text-align: center;">Page 85</p> <p>1 there was a great -- you've walked through the 2 evidence that was collected. Obviously, there was a 3 great number of things located in a restaurant. 4 Were you ever told what happened to all 5 the other items in the restaurant? 6 A. No. 7 Q. Did you ever ask? 8 A. Well, I mean, no, because normally you 9 wouldn't worry too much about the things that were 10 not in the immediate area of origin or of interest to 11 the origin, so no, the rest of the things in the 12 restaurant, no. 13 Q. How about the ballast to the fluorescent 14 lights? 15 A. No. 16 Q. Is there any evidence that the fluorescent 17 lights were an electrical -- had electrical failure 18 and caused the fire? 19 A. No, but they were not available to me, 20 either. 21 Q. Well, neither was the audio system, and 22 you've, you know, mentioned the audio system here 23 today. 24 So I'm asking you whether or not someone's 25 mentioned the fluorescent lights, either Mr. Booth or</p>

<p style="text-align: right;">Page 86</p> <p>1 the attorneys for the plaintiff. 2 A. I've seen it in -- I guess it's Martini's 3 report where he did talk about it on the scene, but 4 no. 5 Q. Do you have any intention on testifying to 6 the jury that any component of the fluorescent 7 lighting caused this fire? 8 A. No. 9 Q. So we have your first opinion is that the 10 circuit boards were components of the base station. 11 Is that correct? 12 A. Yes. 13 Q. Okay. So the next opinion, actually 14 observation, I should say, stated in your June 3rd, 15 2013, report states the boards were noted to display 16 severe thermal damage. 17 Do you see that? 18 A. I'm sorry. Which paragraph are you on? 19 Q. The last page --- 20 A. --- Yes. 21 Q. --- Of your report. 22 A. Yes, I see that. 23 Q. Other than that one statement, the boards 24 were noted to display severe thermal damage, did you 25 find anything else of significance in reviewing the</p>	<p style="text-align: right;">Page 88</p> <p>1 photo to get beyond other than the fact that -- other 2 than the fact that it has obviously seen a lot of 3 heat. 4 Q. Anything else? 5 A. No. 6 Q. So is it your opinion, to a reasonable 7 degree of certainty, that there was an electrical 8 failure with the base station? 9 A. No. 10 Q. Okay. Is it your opinion, to a reasonable 11 degree of certainty, that there was an electrical 12 failure with the power supply to the base station? 13 A. No. That's not my opinion. 14 Q. I'm trying to walk through these so I can 15 get exactly what your opinion is. 16 So do you have any evidence that there was 17 a potential fire causing failure or defect with this 18 base station? 19 A. No. 20 Q. So if you were called to the stand today 21 to testify to a jury regarding this base station, 22 what is your opinion to a reasonable degree of 23 certainty? 24 A. That the condition of that or the 25 potential contribution of that to the fire is</p>
<p style="text-align: right;">Page 87</p> <p>1 photos of the circuit boards? 2 A. No. I mean, the quality of the image 3 doesn't really support further -- further assessment. 4 Q. And that's what you were referring to 5 earlier whenever you asked your attorneys to provide 6 you with a better quality photo? 7 A. Exactly. 8 Q. And you're still waiting for that photo? 9 A. If there is one, yes. 10 Q. So when you state that there was severe 11 thermal damage, tell me what you mean by that 12 statement. 13 A. The combustible materials on the board 14 appear to be consumed. 15 Surface mounted components appear to be 16 gone, for the most part. Looks like it's down to 17 substrate and maybe heat sink material. 18 What little bit of combustible material 19 that is there looks like there's carbonaceous residue 20 for the most part. 21 So severe thermal damage, consumption of 22 combustible materials. Potential melting, 23 degradation of the -- you know, the circuit path and 24 substrate. 25 I really don't have enough detail in the</p>	<p style="text-align: right;">Page 89</p> <p>1 indeterminate. There simply isn't -- I don't have 2 any evidence to look at, and I can't tell from the 3 images that I've been given. So I can't -- I can't 4 effectively rule it out. 5 I can't reproduce the methodology or the 6 findings of Mr. Martini because I don't have access 7 to it. 8 MS. DALY: Let's take a five-minute 9 break. 10 (3:44-3:53 p.m. - recess) 11 Q. (Ms. Daly) You reviewed the expert reports 12 from Terry Lacy and Henry Martini. Is that correct? 13 A. Yes. 14 (* Exhibit 5 was marked *) 15 Q. I am showing you what has been marked as 16 Exhibit 5, the report of Mr. Martini. I'd like to 17 walk through that report with you. 18 The first opinion is that the electrical 19 supply to the building did not cause or contribute to 20 the fire. Do you have -- do you agree with that 21 finding? 22 A. I didn't inspect that. 23 Q. So do you have any evidence to refute Mr. 24 Martini's finding that the electrical supply to the 25 building did not cause or contribute to the fire?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. No.</p> <p>2 Q. Did anybody prevent you from going to the 3 building at Miami -- the Miami Subs building to 4 determine whether or not the electrical supply to the 5 building contributed to the fire?</p> <p>6 A. No, but it was my understanding that the 7 exhibits, some of it had already been removed, but 8 there was no need for me to go there.</p> <p>9 Q. Opinion number -- did you make any 10 comments to any -- anybody, Mr. Booth, the attorneys 11 from McCoy Wiggins, or anyone else regarding opinion 12 one in Mr. Martini's report?</p> <p>13 A. Was that the opinion we just covered?</p> <p>14 Q. Yes. If you want to look at it, it's 15 right in front of you.</p> <p>16 A. Okay. Thank you.</p> <p>17 Q. Oh, you're welcome.</p> <p>18 A. So what page are you on?</p> <p>19 Q. Number one.</p> <p>20 A. And your question?</p> <p>21 Q. Did you discuss opinion number one with 22 anyone?</p> <p>23 A. No.</p> <p>24 Q. And so the record is clear, do you have 25 any evidence to disagree with the statement that the</p>	<p style="text-align: right;">Page 92</p> <p>1 Q. Number five, the fluorescent fixtures 2 installed in the suspended ceiling at or near the 3 area of fire origin did not cause or contribute to 4 the fire.</p> <p>5 Do you have any evidence to refute Mr. 6 Martini's finding?</p> <p>7 A. No.</p> <p>8 Q. Before we get to number six and number 9 seven, do you have -- other than the theory on this 10 audio system, do you have any other theories you have 11 given to anyone, Mr. Booth, the attorneys from McCoy 12 Wiggins, of any possible electrical failure that 13 could have caused the fire?</p> <p>14 A. I don't have a specific theory on this 15 system. I simply don't have the evidence to be able 16 to evaluate the condition of that or the contribution 17 of it, so I don't have a working theory of this 18 particular part failed first and then subsequently 19 resulted in, you know, ignition and so on.</p> <p>20 Q. Let's put aside anything to do with the 21 base station.</p> <p>22 A. Okay.</p> <p>23 Q. Do you have any other possible theories?</p> <p>24 A. No.</p> <p>25 Q. And in regards to the base station, am I</p>
<p style="text-align: right;">Page 91</p> <p>1 electrical supply to the building did not cause or 2 contribute to the fire?</p> <p>3 A. No.</p> <p>4 Q. The second opinion is that the electrical 5 service from the electric meter to the circuit 6 breaker panels located within the building did not 7 cause or contribute to the fire.</p> <p>8 Do you agree with Mr. Martini's finding?</p> <p>9 A. I did not inspect any of that, other than 10 the meter, but I have no reason to dispute it.</p> <p>11 Q. Number 3. No evidence of electrical 12 failure was identified in and around the area of fire 13 origin that could have served as an ignition source 14 for the fire.</p> <p>15 Do you have any evidence to disprove Mr. 16 Martini's opinion number 3?</p> <p>17 A. I have no evidence to refute that, no.</p> <p>18 Q. Number four, the electrical components 19 consisting of wiring and receptacles that are located 20 within the structure and the area of fire origin at 21 the rear drive-thru window did not cause or 22 contribute to the fire.</p> <p>23 Do you have any evidence to refute Mr. 24 Martini's opinion?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 93</p> <p>1 correct in understanding that you don't have a 2 workable theory as to how the fire was caused by this 3 base station?</p> <p>4 A. That's correct.</p> <p>5 Q. If you would look at photograph 33 and 34 6 that are both found on Exhibit 4.</p> <p>7 First, have you seen any other photographs 8 of the PCB's?</p> <p>9 A. Yes. In Mr. Martini's report that I 10 reviewed last night, I believe he had front and back 11 views of the boards, where this is just pretty much a 12 one-sided view.</p> <p>13 (* Exhibit 6 was marked *)</p> <p>14 Q. I'm handing you what's also been marked as 15 Exhibit 6.</p> <p>16 Paragraph -- excuse me, photograph 35, is 17 that the photograph you're referencing?</p> <p>18 A. Yes.</p> <p>19 Q. Were you ever given these three 20 photographs prior to you writing your report? I know 21 you were given photograph 33 because you referenced 22 it.</p> <p>23 How about 34 and 35?</p> <p>24 A. Certainly not 35. It doesn't look 25 familiar. I think what I saw was 33 and then</p>

<p style="text-align: right;">Page 94</p> <p>1 eventually 34.</p> <p>2 Q. When you say eventually 34, what do you 3 mean by eventually 34?</p> <p>4 A. Let me look back at the email that we 5 referred to earlier where I believe this was actually 6 -- no, I think it was only 33 initially.</p> <p>7 Q. And that was provided by the attorneys who 8 have retained you. Correct?</p> <p>9 A. That's correct.</p> <p>10 Q. From the photographs you reviewed, so look 11 at 33, 34, and 35.</p> <p>12 Is there any evidence of localized or 13 isolated heat damage to the print circuit board 14 material?</p> <p>15 A. The photographs are not adequate for me to 16 say.</p> <p>17 Q. So do you have any evidence that there was 18 localized or isolated heat damage to the print 19 circuit boards?</p> <p>20 A. No.</p> <p>21 Q. Have you ever spoken to Mr. Martini 22 regarding his inspection of these boards?</p> <p>23 A. No.</p> <p>24 Q. Did you ask Mr. Martini at the evidence 25 inspection on April 17th anything about the PCB's?</p>	<p style="text-align: right;">Page 96</p> <p>1 any real degree of certainty. So within the limited 2 capability with what's presented here, I mean, I have 3 no evidence to support or refute his comments.</p> <p>4 Q. If you were working with an electrical 5 engineer at your firm -- do you have anybody else 6 that works at your firm or are you the only engineer?</p> <p>7 A. Just me.</p> <p>8 Q. Do you ever work with electrical engineers</p> <p>9 --</p> <p>10 A. --- Umm ---</p> <p>11 Q. --- On cases?</p> <p>12 A. No. Do you mean do I subcontract one or 13 hire one or consult one?</p> <p>14 Q. Or on the same case, if an attorney has 15 retained you and retained an electrical engineer.</p> <p>16 A. I have done, yes, now that I think about 17 it.</p> <p>18 Yes, there have been cases where, I mean, 19 they've had quite a few engineers --</p> <p>20 Q. --- Right.</p> <p>21 A. --- On all one side of a case.</p> <p>22 Q. --- Correct.</p> <p>23 A. --- As a large team working together. So 24 in those cases, yes.</p> <p>25 Q. And if you were brought in as the</p>
<p style="text-align: right;">Page 95</p> <p>1 A. No. To be honest, I was expecting them to 2 be there.</p> <p>3 I mean, because all the evidence had been 4 collected, so I expected it was going to -- that we'd 5 probably find them there as we sorted through.</p> <p>6 Q. And when you didn't, did you ever ask Mr. 7 Martini, the other electrical engineer, or the 8 electrical engineer on site?</p> <p>9 A. No.</p> <p>10 Q. And am I correct you're not an electrical 11 engineer?</p> <p>12 A. Mechanical.</p> <p>13 Q. You're mechanical?</p> <p>14 A. That's correct.</p> <p>15 Q. But my question is are you an electrical 16 engineer?</p> <p>17 A. No.</p> <p>18 Q. Do you have any evidence to refute Mr. 19 Martini's finding that the heat damage to the printed 20 circuit board is uniform and consistent with an 21 external source of heat?</p> <p>22 A. No, I don't have any evidence to support 23 that.</p> <p>24 Q. Do you have any evidence to refute it?</p> <p>25 A. No. I can't tell with these images with</p>	<p style="text-align: right;">Page 97</p> <p>1 mechanical engineer and you have an expert on the 2 same side as you that's brought in as the electrical 3 engineer, what would be your role typically in that 4 case as the mechanical engineer?</p> <p>5 A. Well, as -- from my experience and 6 background, I would imagine it would be looking 7 together at these things and talking about it and 8 sharing an opinion.</p> <p>9 Q. And if that electrical engineer was 10 actually on site and had the item in hand and 11 inspected the item in hand and made a determination 12 versus you reviewing the photograph and making a 13 determination, which opinion would you rely on, yours 14 or the electrical engineer's that had the item in 15 hand?</p> <p>16 A. When it comes to non-uniform patterns of 17 damage, oxidation, melting, things like that, I would 18 rely on mine.</p> <p>19 Q. Okay.</p> <p>20 A. My observations. But if I was there with 21 him on site, we'd be discussing it.</p> <p>22 Q. Okay, so you would be able to rely on your 23 opinion based on a photograph.</p> <p>24 You would rely more heavily on your 25 opinion based on a photograph than you would rely on</p>

<p style="text-align: right;">Page 98</p> <p>1 an electrical engineer who actually had an item in 2 hand --- 3 A. --- No. I'm sorry. 4 Q. --- Doing a determination --- 5 A. --- I misinterpreted your -- I 6 misunderstood your question. I missed the photograph 7 part. I thought we were there together. 8 Q. No. 9 A. Okay. 10 Q. So it's the exact same scenario that we 11 have here, where you have an actual -- an electrical 12 engineer who was on site who inspected the PCB's and 13 made a determination, would you rely on that opinion 14 more than you would rely on your own opinion based on 15 photographs? 16 A. I wouldn't within the context of what I 17 was asked to do in this case, you know, can I rule 18 this in or out? I don't have the physical evidence 19 to be able to do that. I'd have to rely on someone 20 else's interpretation. 21 And even though Mr. Martini may be a fine 22 electrical engineer, I don't know, I'm not going to 23 rely on his interpretation of thermal damage, 24 oxidation patterns, and so on. 25 Q. Would you want anyone else's, other than</p>	<p style="text-align: right;">Page 100</p> <p>1 A. Okay. I've underlined certain text there 2 and in the margin. 3 Would you like me to read those notes? 4 Q. Yes, please. 5 A. There's a bracket that refers back to the 6 underlined section, and it says secondary severe 7 thermal damage exposing substrate and heat sink 8 material. Don't know what surface mounts and other 9 components look like. Needs a micro exam to support 10 or refute hypothesis. 11 Q. What is a micro exam? 12 A. Microscopic, or in this case, macroscopic, 13 five to 50x magnification, just to be able to go over 14 it. 15 Q. Before we go to number seven, do you have 16 any evidence to refute anything stated in finding 17 six? 18 A. No. 19 Q. Did you discuss item six with anyone? 20 A. No, because I only got this last night at 21 about, what, six o'clock. Actually, I did. We 22 talked for maybe five minutes this afternoon when I 23 got here. 24 Q. Well, you told me earlier that you talked 25 to the attorneys last night and you talked to them</p>
<p style="text-align: right;">Page 99</p> <p>1 your own? 2 A. If I was asked to form an opinion and rule 3 it in or rule it out, no, I would -- I would go with 4 mine. 5 Q. And in your opinion --- 6 A. --- And what he provides should be 7 reproducible by others. Right? 8 Q. Right. And your opinion in this case is 9 you have no evidence either way? 10 A. Yes. 11 Q. When did you learn that these PCB's 12 potentially came from the audio system? 13 A. At or about the time that is in that email 14 exchange where Mr. McLean had actually sent me an 15 image, because these images were not made available 16 to me early on. So up until that time I didn't know 17 that we had them in custody, or someone had them. 18 Q. Do you know who identified the photos to 19 Mr. McLean? 20 A. No, I don't. 21 Q. Before I go further, on page three of Mr. 22 Martini's report you have written notes in the bottom 23 right-hand corner. 24 Please read those notes. 25 (Witness examined documents)</p>	<p style="text-align: right;">Page 101</p> <p>1 today --- 2 A. --- Yes. 3 Q. --- About the reports. 4 A. Yes. 5 Q. Okay, so what did you talk about regarding 6 the reports? 7 A. Still that I -- I don't have any evidence 8 that I can point to that would allow me to rule this 9 in or rule it out. So it still, to me, is an 10 open-ended question. 11 Q. Anything else? 12 A. No. 13 Q. So, did they ask you questions back? That 14 took about 20 seconds. So what else was discussed on 15 the conversation last night and today? 16 A. Well, the conversations last night were 17 really more focused on getting the reports to me so I 18 could do the review. And --- 19 Q. So did you talk to them after the review? 20 A. No. 21 Q. Okay, so you only talked --- 22 A. --- And that's what we did briefly --- 23 Q. --- To them before the review? 24 A. --- Here today. 25 Q. Okay.</p>

<p style="text-align: right;">Page 102</p> <p>1 A. Yes. 2 Q. And other than how to get the reports to 3 you was there anything discussed in that conversation 4 prior to you receiving the reports? 5 A. No, not really. 6 Q. And then in your discussion today? 7 A. Very brief summary of an opinion, the same 8 one I just gave you, that I really can't tell, even 9 though these -- they have more photos here, they are 10 a little bit better than what I had gotten earlier. 11 Still, for me to be able to conclusively 12 rule out plausible modes or mechanisms with it, you 13 either need the exhibit, right, to stack up against 14 the analytical assessment, or you need better 15 documentation of it, which Mr. Martini may very well 16 have. It's just not available to me. 17 Q. Prior to you coming here today, did you 18 ever ask your attorneys to ask me or anyone on 19 Nationwide's side to bring to you any additional 20 photographs? 21 A. Certainly in the time frame that the email 22 refers to where image 33 came to me, we had 23 discussions back and forth about, you know, gee, this 24 is a PDF image. 25 I think I even allude to that in my</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. In looking at photograph 16, do you agree 2 that that was a protected area? 3 A. Yes, it appears to be. 4 Q. Generally speaking, do you agree that a 5 well-defined area of fire origin would result in an 6 area of greater fire or heat damage rather than a 7 protected area? 8 A. That would make sense, yes. I guess I 9 would -- I want to add to that, though, that 10 depending upon where the actual point of origin 11 within a device that's mounted there actually is, 12 right. 13 Q. So get -- explain to me any theory you may 14 have of how this base station had an electrical 15 failure and caused -- strong enough to cause the 16 fire. 17 How did it create a protected area if it 18 was the actual electrical component that caught on 19 fire? 20 A. Well, again, this is Mr. Booth's idea, but 21 --- 22 Q. --- And we've already established that. 23 A. Yeah. 24 Q. But you don't have any evidence refuting 25 that this is where ---</p>
<p style="text-align: right;">Page 103</p> <p>1 summary letter here, about it just being a low 2 quality --- 3 Q. --- Uh-huh. 4 A. --- PDF image. Right? 5 But yes, I mean, I did make those requests 6 and they said they were going to -- going to ask for 7 it. But I never did get anything further to look at, 8 or a better quality to look at. Put it that way. 9 Q. Okay, let's turn to page four, and it's 10 finding seven, marked Mr. Martini. 11 (* Exhibit 7 was marked *) 12 Q. I'm going to show you what is marked as 13 Exhibit 7. Do you -- strike that. 14 First, have you ever read Mr. Booth's 15 report? 16 A. I have not. 17 Q. Have you been provided a copy of Mr. 18 Booth's report? 19 A. I have not. 20 Q. In Mr. Booth's report he states that the 21 protected area on the wall is the location where the 22 base station was installed. 23 Do you agree with Mr. Booth? 24 A. That's my understanding, that that's where 25 it was installed. I have no reason to dispute it.</p>	<p style="text-align: right;">Page 105</p> <p>1 A. --- Yeah. 2 Q. --- The base station was located. 3 Correct? 4 A. Correct. 5 Q. Okay. So I want you -- what I'm asking 6 from you as the mechanical engineer, give me your 7 theories on how it could have come about that the 8 base station, the electrical components of the base 9 station, caught on fire, was the point of origin, and 10 caused a protected area on the wall where it was 11 mounted. 12 A. Okay. I guess off the top of my head, 13 right? You don't know what --- 14 Q. --- Well, you knew -- being --- 15 MR. WIGGINS: --- Well, let him 16 answer, Rachel. 17 Objection. 18 MS. DALY: I agree. Go ahead. 19 MR. WIGGINS: Okay. 20 THE WITNESS: I don't know which 21 part of the base station, right, is actually up 22 against that back surface. 23 For all I know of the base station, since 24 I haven't seen one taken apart, there could very well 25 be a metal backing plate that could have been there.</p>

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<p>1 And then the circuit boards and the rest of the 2 component could have melted and fallen away. For all 3 I know, that -- that -- that pattern is a metal base 4 plate.</p> <p>5 I don't know what the internal design 6 features of this are. All I have to look at are 7 remains of circuit cards. Where the rest of the base 8 station is, I don't know. If there's a metal base 9 plate on the back of that, then you may very well be 10 looking at that. So I don't know.</p> <p>11 Q. (Ms. Daly) Anything else other than if 12 there's a metal base plate there's a possibility that 13 could have provided a protected area?</p> <p>14 A. Without knowing where within the unit a 15 failure has occurred, and then how that would 16 actually compromise the integrity of the housing 17 holding this up -- and again, without the details of 18 the design constraints for the design features of 19 this -- but I could visualize losing just the lower 20 part of the base station.</p> <p>21 I mean, I don't know how this is going to 22 come apart. It depends on where within the confines 23 of the housing you start the ignition or start the 24 fire, and then how that thing then comes apart.</p> <p>25 But, you know, I understand where you're</p>	<p>1 that. 2 Q. Other than if there was a metal base 3 plate, or I believe you mentioned if something in the 4 bottom of this audio system fell to the ground and 5 caught on fire, any -- any other theory you could 6 think of that would have caused a protected area as 7 opposed to what you would generally find -- 8 A. --- Well --- 9 Q. --- If that was the point of origin? 10 A. Just to be clear, before -- I'm just 11 saying that I don't know how this housing would 12 necessarily come apart as, you know, depending on 13 where you start the fire. 14 But no, I don't have any other thoughts as 15 to how you would leave a protected area behind this 16 unit and still have that be the point of origin. 17 Q. Generally, whenever you've gone into fire 18 scenes --- 19 A. --- Yes. 20 Q. --- Is the point of origin the most 21 damaged area at a fire scene? 22 A. Well, typically that's where your highest 23 heat intensity is or seems to be in the ones that 24 I've been on, yes. 25 Q. Have you ever seen the point of origin</p>
Page 107	Page 109
<p>1 going, but I'm not sure that I necessarily need to 2 defend the pattern on the wall for the focus of what 3 I'm actually looking to do. I feel like this is more 4 Mr. Booth and the cause and origin guys that would 5 --- 6 Q. --- So are you saying that the pattern of 7 fire on the wall is not within your expertise? 8 A. No. I'm saying that --- 9 Q. --- Because I thought you said earlier you 10 would have -- you would look at yours over an 11 electrical engineer's when you're looking at patterns 12 of fire. 13 A. You didn't say on the wall. At that time 14 we were talking about temper, discolorations, 15 oxidation patterns, and damage on a circuit board. 16 That's different than showing me a soot stain on a 17 wall. 18 Oxidation, temper, discolorations, are 19 definitely different things. 20 Q. Okay, so for the shadows and the pattern 21 on the wall you would not give an opinion as an 22 expert to the jury? 23 A. No. I wouldn't necessarily --- 24 Q. --- Okay. 25 A. I would not give them opinion defending</p>	<p>1 provide a protected area and there be a higher fire 2 and heat damage located somewhere else? 3 A. I don't know so much about it being a 4 protected area, but depending on the fuel loads in 5 the room after the fire initiates, I have seen higher 6 intensities elsewhere. 7 Q. If there's like a ventilation system 8 somewhere? 9 A. Sure. I mean, or if there's something 10 that's highly combustible in another part of the room 11 that catches large fuel loads, you get higher heat 12 intensities. 13 Q. Did you have a discussion with anyone 14 regarding this protected area? 15 A. Steve Booth told me that he saw that that 16 was there. 17 Q. And what did he tell you about it? 18 A. After the 17th. It would have been well 19 after. 20 Q. What did he tell you about it? 21 A. Oh, I'm sorry. I thought you said when. 22 Q. Oh, no. That's okay. 23 A. Okay. Just simply that there was a 24 protected pattern on the wall. 25 Seems to be pretty much reciprocal to the</p>

Page 110	Page 112
<p>1 dimensions of the base of the unit, so suspects that 2 pretty well confirms where it was installed. 3 Q. Did you ever have a conversation with Mr. 4 Booth about it being unusual that there would have 5 been a protected area of the wall at the point of 6 origin? 7 A. No. 8 Q. Did the two of you discuss anything about 9 that, other than the fact that it was a protected 10 area? 11 A. Relative to... 12 Q. Anything. I want to know any conversation 13 you've ever had regarding this point of origin. 14 A. No. I mean, the only -- the only 15 discussions we've had have been focused on really 16 making sure that they understood or -- you know, 17 they're making sure that I knew what -- what this 18 component was and helping me get to the 19 manufacturer's information, discussing whether or not 20 there was enough evidence given as close proximity to 21 the point of origin to be able to rule it in or rule 22 it out as a potential cause, and recognizing that we 23 have nothing but photos, you know, could you 24 conclusively, you know, work through what we do have 25 to be able to say one way or another.</p>	<p>1 A. Not that I'm aware of, no. 2 Q. And without doing that, are you able to 3 testify to a reasonable degree of certainty the 4 specifications of this audio system? 5 A. You mean the board level specifications 6 that would allow a detailed failure modes and effects 7 analysis? 8 Q. Yes. 9 A. No. 10 Q. Are you aware of any screws or holes from 11 the screws found in the protected area of the wall? 12 A. No. 13 Q. Do you know how this was mounted on the 14 wall? 15 A. Just a minute. Let me think. 16 When Booth and I talked about this, he 17 actually did tell me that it was mounted on the wall 18 using screws, but I don't recall whether the screws 19 were there or not. 20 And as for your question just now, I have 21 seen in the images -- I think it was in Martini's 22 report that shows the back side of the base unit, and 23 it shows four holes, I believe, for a screw mount 24 location. 25 Q. Did you speak with anybody regarding Henry</p>
Page 111	Page 113
<p>1 Q. Do you agree that the fact that this was a 2 protected area makes it less likely that the audio 3 system was the point of origin of the fire? 4 A. No. What this tells me is that there was 5 something there to give you that protected area and 6 it's likely going to be the back of the unit. As far 7 as what the back of the unit is, whether that's a 8 metal base plate or plastic housing or what, I don't 9 know. 10 So without knowing the construction of the 11 box, where within the box you think the fire may have 12 started and occurred, and then how you would 13 subsequently degrade or lose the integrity of the 14 box, no. All that tells me is that that's a 15 protected area on the wall. 16 Q. And you've never purchased one of these 17 audio systems to do any type of destructive testing? 18 A. No. 19 Q. Have you ever purchased one to take it 20 apart to determine the specifications --- 21 A. --- No. 22 Q. --- Of the design? 23 A. We discussed it, but we did not do that. 24 Q. Do you have any intentions on doing this 25 before trial?</p>	<p>1 Martini's finding in number seven? 2 A. No. 3 Q. Do you have any evidence to refute any of 4 the statements found in Martini's Exhibit 7 -- excuse 5 me, finding seven? 6 A. No. Recognizing also, of course, that I 7 haven't seen Mr. Booth's report to see the context of 8 what he's saying, but no. 9 Q. On page five of Mr. Martini's report, at 10 the bottom right-hand corner, can you read to me what 11 you have written. 12 A. It says, extensive secondary damage may 13 have destroyed primary patterns. This should have 14 been recovered. 15 Q. And what are you referring to in that 16 statement? 17 A. Well, there was obviously extensive 18 thermal damage to this device that was in the area of 19 the origin, and that what Mr. Martini is talking 20 about here are the heat damage. 21 And the point I'm making is that this 22 thing has been exposed to a lot of secondary heat 23 damage as a result of the fire, and so it's hard to 24 infer, certainly from pictures, primary versus 25 secondary potentially. It could potentially mask</p>

Page 114	Page 116
<p>1 some of the primary thermal patterns. 2 So I'm saying it should have been 3 recovered so that we could get a better look at this 4 under magnification and get better -- better 5 photographs, which, again, he may have. But for me, 6 I need more than that.</p> <p>7 Q. Is it your opinion that Mr. Martini could 8 not make this finding, or is it your opinion that you 9 can't make this finding on the photographs?</p> <p>10 A. It's my opinion that I cannot reproduce 11 his finding. I cannot look at his photographs and 12 concur with his observation.</p> <p>13 Q. Is it your opinion, though, that Mr. 14 Martini made the wrong determination based on his own 15 inspection of the actual item?</p> <p>16 A. No. I'm not opining that he made the 17 wrong observation. I just simply don't know his 18 background and ability to infer thermal patterns and 19 oxidation patterns and so on. It's something you 20 need to look at to be able to draw your own 21 conclusion. I should be able to ---</p> <p>22 Q. --- But you're not saying his conclusion 23 is wrong. Is that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. So on page six you have handwritten notes.</p>	<p>1 A. I do, yes. 2 Q. And do you agree with the statement, the 3 energy loading characteristics of a class two power 4 supply are intended to minimize fire initiation 5 potential and provide acceptable protection from 6 electric shock?</p> <p>7 A. I do, and it's that last sentence that my 8 comments in the margin are really geared towards.</p> <p>9 Q. But you do agree with that statement?</p> <p>10 A. I do, yeah.</p> <p>11 Q. You said that you also reviewed Mr. Lacy's 12 report.</p> <p>13 A. I did.</p> <p>14 Q. It's still in your file, I believe, if you 15 want to take a look at it.</p> <p>16 A. Sure.</p> <p>17 Q. I did not note any notes taken on Mr. 18 Lacy's. Am I correct?</p> <p>19 A. Yes. That's correct. It was more 20 informational than anything, my read of it was.</p> <p>21 Q. And Mr. Lacy is a fire scene investigator. 22 Correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you are not. Is that correct?</p> <p>25 A. That's correct.</p>
<p style="text-align: center;">Page 115</p> <p>1 Will you read those to me, please.</p> <p>2 A. Sure. It's in reference to the class two 3 power supply comments that he's got in his reports, 4 and I said that class two -- you know, class two 5 assumes dry indoor use, non-hazardous locations.</p> <p>6 NEC, national electrical code. But it 7 comes from -- straight from that. There are some 8 caveats on class two and their ability to 9 successfully minimize the potential for a fire.</p> <p>10 Q. And why did you take those notes? What's 11 the significance?</p> <p>12 A. The area it's installed in, certainly 13 there is potential for it to have been contaminated.</p> <p>14 I mean, just because he says it's class 15 two, that doesn't mean that it can't cause a fire.</p> <p>16 There are some caveats that are called out 17 in the NEC. You know, it's got to be indoors, it's 18 got to be dry, non-hazardous locations. You don't 19 want to contaminate the thing because of -- the 20 boards and components are exposed.</p> <p>21 Q. Do you agree with his two sentences in 22 this paragraph that begins, class two power supplies 23 are energy limited and are intended primarily to 24 provide power to low voltage electrical devices?</p> <p>25 Do you agree with that statement?</p>	<p style="text-align: center;">Page 117</p> <p>1 Q. Is there anything contained in Mr. Lacy's 2 report that you have evidence to refute?</p> <p>3 A. No.</p> <p>4 Q. Did you discuss Mr. Lacy's report with 5 anyone?</p> <p>6 A. No.</p> <p>7 Q. Is the cause and origin of a fire outside 8 of your expertise?</p> <p>9 A. The -- the cause and origin investigation, 10 yes.</p> <p>11 Q. Is outside of your expertise?</p> <p>12 A. Yes. My focus is strictly in the defect 13 investigation, product liability, failure analysis.</p> <p>14 Q. Let me go back to Mr. Lacy's report, and 15 on page five, number seven, is it outside of your 16 expertise to comment on whether or not the theory put 17 forth by Mr. Booth is plausible?</p> <p>18 A. I haven't seen Mr. Booth's report to know 19 his theory.</p> <p>20 Q. Reading number seven, the -- the subject 21 matter and the opinion in number seven, is that 22 outside of your expertise?</p> <p>23 A. No.</p> <p>24 Q. It's not outside your expertise?</p> <p>25 A. No. I mean, I've got quite a -- quite a</p>

<p style="text-align: right;">Page 118</p> <p>1 bit of background in heat transfer. Certainly the 2 heat transfer aspects of that, combustion is basic 3 mechanical engineering.</p> <p>4 Q. And have you ever discussed -- and that 5 was not included in your expert report. Correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And is that outside of the scope of your 8 testimony in this case?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And at trial do you have any 11 intention on testifying regarding heat transfer, 12 whether or not the theory set forth in finding seven 13 is plausible?</p> <p>14 A. Based on what's on the table today, no. 15 If we come back with a specific failure 16 mode or mechanism that's plausible up inside of this 17 box, for example, and start talking about heat 18 transfer characteristics for how you can communicate 19 that out through the box, then yes, if that were 20 asked.</p> <p>21 Q. Okay.</p> <p>22 A. And if the information was made available 23 to me to form basis.</p> <p>24 Q. But that was not included in your expert 25 report?</p>	<p style="text-align: right;">Page 120</p> <p>1 CERTIFICATE OF TRANSCRIPT 2 I, Cassandra J. Stiles, Notary Public in 3 and for the County of Forsyth, State of North 4 Carolina at Large, do hereby certify that there 5 appeared before me the foregoing witness;</p> <p>6 That the testimony was duly recorded by 7 me, reduced to typewriting by me or under my 8 supervision and the foregoing consecutively numbered 9 pages are a complete and accurate record of the 10 testimony given at said time by said witness;</p> <p>11 That the undersigned is not of kin nor 12 associated with any of the parties to said cause of 13 action, nor any counsel thereto, and that I am not 14 interested in the event(s) thereof.</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my 16 hand this the 12th day of August, 2013.</p> <p>17 Cassandra J. Stiles, CVR 18 Certified Court Reporter 19 Atlantic Professional Reporters 20 Post Office Box 11672 21 Winston-Salem, NC 27116-1672</p>
<p style="text-align: right;">Page 119</p> <p>1 A. It's not. I don't have the information in 2 front of me today to -- to do that.</p> <p>3 Q. Do you have any opinions other than what's 4 contained in your expert report?</p> <p>5 A. No.</p> <p>6 MS. DALY: I don't have any other 7 questions.</p> <p>8 Thank you for your time.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. WIGGINS: I have no questions.</p> <p>11 WHEREUPON, 12 at 4:44 o'clock p.m. the deposition was adjourned.</p>	<p style="text-align: right;">Page 121</p> <p>1 CERTIFICATE OF OATH 2 I, Cassandra J. Stiles, Notary Public in 3 and for the County of Forsyth, State of North 4 Carolina at Large, do hereby certify that there 5 appeared before me the foregoing witness;</p> <p>6 That the witness personally appeared 7 before me at the date, time and location hereon 8 captioned and was personally sworn by me prior to the 9 commencement of the proceeding in the matter hereon 10 captioned.</p> <p>11 IN WITNESS WHEREOF, I have hereunto set my 12 hand this the 12th day of August, 2013.</p> <p>13 Cassandra J. Stiles, CVR 14 Certified Court Reporter 15 Atlantic Professional Reporters 16 Post Office Box 11672 17 Winston-Salem, NC 27116-1672</p>

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1 WITNESS CERTIFICATION

2 I, STEPHEN EDWARD STONE, hereby certify:
 3 That I have read and examined the contents of
 4 the foregoing testimony as given by me at the time
 5 and place hereon indicated, and;

6 That to the best of my knowledge and belief,
 7 the foregoing pages are a complete and accurate
 8 record of all the testimony given by me at said time,
 9 except as noted on the Attachment A hereto.

10 I have _____ have not _____
 11 made changes/corrections _____

12 Stephen Edward Stone

13 I, _____, Notary Public for the
 14 County of _____, State of _____,
 15 hereby certify:

16 That the herein-above named appeared before me
 17 this the _____ day of _____, 19_____, and;

18 That I personally witnessed the execution of
 19 this document for the intents and purposes as herein-
 20 above described.

21 _____ Notary Public

22 My Commission Expires:

23 _____ (SEAL)

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1 CERTIFICATE OF MAILING

2 I, Cassandra J. Stiles, CVR, do hereby certify
 3 that a true copy of the transcription of the matter
 4 hereon captioned was served on the party named below
 5 by the placement of said transcript copy in the
 6 United States Mail, Priority Mail delivery, with
 7 proper postage affixed, addressed as follows:

8
 9 Stephen Edward Stone
 10 Post Office Box 2368
 11 Morehead City, NC 28557

12
 13 This the 12th day of August, 2013.

14
 15 Cassandra J. Stiles, CVR

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1 ADDENDUM A

2 Upon reading and examining my testimony as
 3 herein transcribed, I make the following additions,
 4 changes and/or corrections, with the accompanying and
 5 corresponding reason(s) for the same:

6 Page Line Is Amended to Read

7 _____
 8 _____
 9 _____
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 11 _____
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 18 _____
 19 _____
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21 _____
 22 _____
 23 Stephen Edward Stone
 24 _____
 25 _____

32 (Pages 122 to 124)